



Nevada Board of Agriculture

Board Meeting Packet

March 4, 2014
9:00 a.m.

MEETING NOTICE AND AGENDA

BOARD OF AGRICULTURE

LOCATION: Nevada Department of Agriculture
405 S. 21st St.
Sparks, NV 89431-5557
775-353-3601
775-353-3661

Video-Conference to: Nevada Department of Agriculture
4780 Idaho St.
Elko, NV 89801-4672
775-738-8067
775-738-2639

Video-Conference to: Nevada Department of Agriculture
2300 McLeod Street
Las Vegas, NV 89104
702-668-4590
702-668-4567

DATE AND TIME: March 4, 2014 9:00 AM



Jim R. Barbee, Director

Below is an agenda of all items to be considered. **Action may be taken on items preceded by an asterisk (*).** Items on the agenda may be taken out of the order presented, items may be combined for consideration by the public body; and items may be pulled or removed from the agenda at any time at the discretion of the Chairperson.

AGENDA

1. **Open meeting-call meeting to order by Chairman Dave Stix, Jr.**
 - A. Pledge of Allegiance
 - B. Roll call
 - C. Oath of Office for New and Reappointed Board Members

Appointed by Brian Sandoval, Governor, State of Nevada

Ramona Morrison, Member at Large – Reappointed Term: 7/25/2013 to 6/30/2016

Jim Snyder, Row Crops – Reappointed Term: 7/25/2013 to 6/30/2016

Alan Perazzo, Dairy Industry – Reappointed Term: 1/30/2014 to 10/31/2016

Brian Nakaguchi, Pesticides – Appointed Term: 7/25/2013 to 10/31/2013

Reappointed Term: 11/1/2013 to 10/31/2016

Pierre “Pete” Paris – Sheep Industry – Appointed 1/13/2014 to 10/31/2016

2. Public Comment

3. Minutes

A. *Approve December 5, 2013 Board meeting minutes *(for possible action)*

4. Directors Report

A. Report, Jim Barbee, Director *(for information)*

B. Marketing & Communications Update – Bob Conrad *(for information)*

C. Ag Report – Tatjana Vukovic *(for information)*

D. International Marketing Update – Jeff Sutich *(for information)*

E. Introduction of Agriculture Literacy Staff member, Amber Smyer

5. Administration

A. Update to Board – Dale Hansen, Administrator *(for information)*

6. Plant Industry

A. Update to Board – Dawn Rafferty, Administrator *(for information)*

B. *Request Board approval for use of Alfalfa Seed Research and Promotion Account Funds to refund travel expenses (not to exceed \$5000) for two NV alfalfa seed producers who attended the National Alfalfa and Forage Alliance Washington D.C. Fly-in event on 2/11/14-2/13/14. *(for possible action)*

C. *Request Board approval for payment of the 2014 NAFA dues, when assessed, from the Alfalfa Seed Research and Promotion Account. While the NAFA dues payment is proactive to hopefully avoid non-payment, the council is scheduled to meet again in November, while the dues should be assessed by June. *(for possible action)*

D. *Adoption of permanent NAC 587.340 change to Certificate of Origin adding \$25 fee for processing. Board approved Temporary Reg due to timing with session. The process was repeated to become permanent. No changes to original submission. *(for possible action)*

E. *Request Permission to go to workshop and hearing for NAC 555 changes related to Pest Control Operator licensing. *(for possible action)*

F. Request Permission to go to workshop and hearing for NAC changes to 555.010 to amend noxious weed list. *(for possible action)*

7. Consumer Equitability

- A. Update to Board – Dave Jones, Administrator, Division Consumer Equitability
(for information)
- B. NAC 581 Public Hearing March 20 - Notice of Intent To Act *(for information)*

8. Food & Nutrition

- A. Update to Board - Donnell Barton, Administrator *(for information)*

9. Animal Industries

- A. Update to Board – Flint Wright, Administrator *(for information)*
- B. *Nevada Woolgrowers Association 12/1/13 Letter of Request for balance of monies 2013-14 Budget - \$36,058.46. *(for possible action)*
- C. *Review of NAC Trichomoniasis Regulations re: notification of neighboring herds
(for possible action)
- D. Report to Board from Director and DAG on Resource Management Plan as it pertains to Agency Status and Coordination to find if Board has legal standing on this issue.
(for information)
- E. Report to Board from DAG on legal foundation for Documents and Statements presented to Board from Constituents on 12-5-13 regarding BLM Winnemucca Office EOU Grazing Agreements as it pertains to private lands. *(for information)*

10. Board Member Presentations

- A. *Ramona Morrison – Submission of Letter from N-6 Grazing Board Chairman, Hank Filippini to State Bar of Nevada Re: *Estate of Michael David Adams vs. Susan Fallini*, Case No. CV24539. Ramona requests open discussion and suggestion that Ag Board write letter to State Bar of Nevada to request Disciplinary Action in this matter regarding “Gross Misrepresentation” of Nevada Open Range Law, and serious violations of rules of ethics. *(for possible action)*
- B. *Director’s Evaluation - *(for possible action)*

11. Public Comment

12. Adjournment

* Denotes items on which Board may take action. ** Denotes possible closed session.
Unless noted as an action item, discussion of any item raised during a report or public comment is limited to that necessary for clarification or necessary to decide whether to place the item on a future agenda.

Public comment may be limited to three minutes per person at the discretion of the chairperson.
All times are approximate. The Board reserves the right to take items in a different order to accomplish business in the most efficient manner.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify The Dept. of Agriculture in writing at 405 S. 21st Street, Sparks, NV 89431 or contact Gina Breslow at 775-353-3619.

Copies of both the State of Nevada Board of Agriculture Agenda with supporting documentation and Open Meeting Minutes are available, at no charge, for inspection at the Dept. of Agriculture 405 S. 21st Street, Sparks, NV, 89431 or Dept. of Agriculture website at www.agri.state.nv.us. For additional information contact Gina Breslow at 775-353-3619.

Notice of this meeting was posted on or before 9:00 a.m. on the third working day before the meeting at the following locations: Nevada Department of Agriculture, 405 S. 21st Street, Sparks, NV 89431, Nevada Department of Agriculture, 2150 Frazer Ave., Sparks, NV 89431, Nevada Department of Agriculture, 4780 E. Idaho Street, Elko, NV 89801, Nevada Department of Agriculture, 2300 McLeod Street, Las Vegas, NV 89104, State of Nevada Capital Building, Carson City NV, State Library and Archives, Carson City.

1

**Open Meeting-
Call to order by
Chairman
Stix**

1A

Pledge of Allegiance

1B

Roll
Call

1C

Oath of Office
New and
Re-appointed
Board Members

2

Public Comment

3

**Minutes
12-5-13**

3A

*Approve Minutes
12-5-13
Board Meeting

(Attachment)
*Possible Action

Name of Organization:

Nevada Board of Agriculture

Date and Time of Meeting:

December 5, 2013, 9:00 a.m.

Place of Meeting:

**Nevada Department of Employment,
Training and Rehabilitation
(DETR)
2800 E. St. Louis Ave.
Las Vegas, NV 89104
702-486-7923**

Minutes

December 5, 2013

Board Members Present:

Dave Stix, Jr., Chairman
Paul Anderson, Vice Chairman
Jim Snyder
Boyd Spratling
Paul Noe
Timothy Dufferena
Ramona Morrison
Brian Nakaguchi
Charlie Frey
Hank Vogler
Alan Perazzo

Board Members Absent:

None

Guests Present:

Dennis Hellwinkel
Terri Frolli
Cathy Erskine
Mike Hillerby
Alfredo Alonso
Nancy Long
Lea Tauchen
Peter Krueger
Don Alt
Sean Higgins
Mike Stremmer
Danny Martinez
Tim DeLong
Timmy Lyn DeLong
Pete Paris
Mark Jensen

Staff Members Present:

Jim Barbee
Dennis Belcourt, Deputy A.G.
Bryan Stockton, Senior D.A.G.
Lynn Hettrick
Dale Hanson
Flint Wright
Donnell Barton
Gina Breslow
Bob Conrad
Damon Hernandez
Robert Leavitt
Dave Jones
Jeff Sutich
Tatjana Vukovic
Jamie Greer
Ed Foster
Steve Marty
Kathy Easley
Brandon Harmon
Jay Ludlow

1. Open meeting-call to order by Chairman Dave Stix, Jr. at 9:05 am

- A. Pledge of Allegiance
- B. Roll call
- C. *Approve August 6, 2013 Board meeting minutes (*for possible action*)

Hank Vogler requests minutes be amended. Mr. Vogler's name was omitted by clerical error from August 6, 2013 meeting. Minutes Amended. Moved by Boyd Spratling to approve Board Minutes as Amended and Seconded by Ramona Morrison. Passed with unanimous support.

2. Public Comment – Hank Vogler brought up new trapping rules that may affect most counties and cities.

Charlie Frey expressed concerns regarding severe budget cuts to the UNR Coop. Extension.

3. Directors Report

- A. Activity Report – Jim Barbee – submitted and discussed for time period August 7-December 5, 2013. (*for information*)

4. Administration

- A. Update to Board – Dale Hansen, Administrator (*for information*)
- B. *Approval of Public Information Requests Policy and Fee Schedule (*for possible action*)

Questions to DAG of possibly adding a **No.7** to Policy regarding the intention of dispersal of records. DAG responds in the affirmative.

Moved by Ramona Morrison to Amend Policy adding: “No 7. Intent for Dispersal of Records” and Seconded by Jim Snyder. Passed with unanimous support as amended.

- C. *Department Policy Adoption Changes and Updates to HR Policies 4 and 14:

- i. *Policy AG-1-HR 4 Furlough Leave (*for possible action*)

After discussion, *Moved by Paul Anderson and Seconded by Paul Noe. Passed with unanimous support.*

- ii. *Policy AG-1-HR 14 Volunteer Services (*for possible action*)

After discussion, *Moved by Ramona Morrison and seconded by Jim Snyder. Passed with unanimous support.*

- D. Marketing & Communications Update – Bob Conrad (*for information*)
- E. Ag Report – Tatjana Vukovic (*for information*)
- F. International Marketing Update – Jeff Sutich (*for information*)

5. Plant Industry

A. Update to Board – Ed Foster, Deputy Administrator (*for information*)

- A. *Request Permission to go to workshop and hearing to change temporary regulation to a permanent regulation: Fee for Certificate of Origin
(For possible action)

*Moved by Paul Noe and Seconded by Alan Perrazo.
Passed with unanimous support.*

- B. *Request Board approval Policy: Noxious weed Free Program Certification Program
(for possible action)

Moved by Boyd Spratling and Seconded by Jim Snyder. Passed with unanimous support.

6. Consumer Equitability

A. Update to Board – Dave Jones, Administrator (*for information*)

- B. *Adoption of regulation LCB R189-12 to amend NAC 590.063, as required by NRS 590.131, for warning labels on motor vehicle pumps concerning manganese content *(for possible action)*

Sean Higgins, Porter Gordon Silver, for record: disagrees with proper wording of Regulation and requests the word, “Warning” be removed from Fuel Labels. DAG confirms item has gone to Public Workshop and Hearing and is a Legislative Action. After discussion, *Moved by Paul Anderson to Adopt Revised LCB R189-12 and Seconded by Ramona Morrison. Charlie Frey abstains. Motion Passes*

7. Food & Nutrition

A. Update to Board - Donnell Barton, Administrator (*for information*)

8. Animal Industries

A. Update to Board – Flint Wright, Administrator (*for information*)

- B. *Brand District Lines *(for possible action)*

After discussion, Boyd Spratling Moves that Department go from current version to an updated version of Brand District Lines through workshops and hearings. Ramona Morrison Seconds. Passed with unanimous support.

- C. *Resource Management Plan as it pertains to Agency status & coordination
(for possible action)

After discussion, Ramona Morrison Moves to direct Department to obtain plans that already exist and bring a proposal to the Agency and Boyd Spratling Seconds. Passed with unanimous support.

- D. *BLM Winnemucca Office EOU Grazing Agreements as it pertains to private lands. Information to be forwarded to DAG for advice and consent for NDA and NV Ag Board to assist with Constituents’ complaints.
(for possible action)

Constituent Tim DeLong was asked to speak, deferred to Mike Stremmer, Natural Resources Chairman, Pershing County. After discussion and comments, ***Ramona Morrison moves to ask DAG to draft letter and Tim Dufferna Seconds. DAG suggests that Board modify motion prior to vote. Ramona withdraws motion.***

Boyd Spratling Moves to request the DAG research and verify materials presented to Board, such as statements regarding "Fence Out", then ask Department Director and DAG to compile information to bring back to next Board meeting in March. Board can then decide to ask Director to request a Letter from the Governor addressed to Winnemucca Office of BLM on behalf of Nevada Constituents. Tim Duffurena Seconds. Don Alt, Nevada Livestock Assn, asks to speak. Chairman yields the floor for Mr. Alt's comments. ***Chairman reminds everyone there is a Motion and a Second on the floor and calls for a Vote. Passed with unanimous support.***

9. Board Member Presentations

A. ****Director's Evaluation (for possible action)***
Tabled for March Meeting – Gina to send Board members short-form evaluation for March Meeting Evaluation.

B. ****Officer Elections (for possible action)***

****Vice Chairman: Paul Noe Nominates: Paul Anderson and Ramona Morrison Seconds. Paul Anderson is Elected Vice Chairman of the Nevada Board of Agriculture with Unanimous Support.***

****Chairman: Alan Perazzo Nominates Dave Stix, Jr. and Charlie Frey Seconds. Dave Stix, Jr. is Elected Chariman of the Nevada Board of Agriculture with Unanimous Support.***

Not Agenized: Ramona Morrison – Submits Letter from N-6 Grazing Board Chairman, Hank Filippini, to State Bar of Nevada Re: *Estate of Michael David Adams vs. Susan Fallini*, Case No. CV24539. Ramona requests this letter and a possible response from the Ag Board be placed on the March Agenda as an Action Item. Chairman accepts submission.

10. Public Comment

11. Adjournment – next Meeting Set for March 4, 2014

Boyd Spratling Moves to Adjourn and Ramona Seconds. Passed with unanimous support – Meeting adjourns 3:31 pm.

4

Directors Report

4A

Director
Barbee's
Activity
Report

4B

Marketing &
Communications
Update

4C

Ag Report

4D

International
Marketing
Update

Introduction
Agriculture
Literacy Staff
Member
Amber Smyer

5

Administration

5A

Update to Board

6

Plant Industry

6A

Update to Board

(Attachment)

NEVADA BOARD OF AGRICULTURE MEETING

March 4, 2014

Plant Industry Programs Update

ENVIRONMENTAL SERVICES:

- 2 review committee meetings were held to review fines assessed to a commercial, non-agricultural licensed applicator, and a commercial, agricultural licensed applicator.
- A summary of the total number and categories of pesticide samples analyzed by the NDOA Pesticide Laboratory is available from the NDA Laboratory Manager, Dr. Jim Zhang.
- Pesticide Waste Disposal Program:
Collected 376 pounds of pesticide waste since 10/1/2013 which is stored at the warehouse. It was not reported in the previous quarterly report that 12,375 pounds of waste pesticide were collected, for a total of 14,072 lbs of waste pesticide collected since July 1, 2013.
Edited waste pesticide brochure: added new contact information and a recycling hotline for non-pesticide products;
- Ground and Surface Water Protection Program
Surface water samples were taken from the Virgin River in Las Vegas;
Groundwater samples were taken from Reno/Sparks, Elko, Humboldt County, Lovelock, Gardnerville/Minden, Fallon, Smith Valley, Yerington, Las Vegas, Overton, Wadsworth and Verdi
- Pesticide Applicator Training & Testing
Presented Worker Protection Standard (WPS) and Record Keeping at the CEU Workshop & Pesticide Applicator Training in Reno on 10/2/2013;
Staff made presentations during the Nevada Weed Management Association meeting held on October 29, 30 and 31;
staff helped to organize and made presentations for the certification training program held in Las Vegas by CTN Education Services on December 16-17 (agenda attached) and on October 2 (training sponsored by UNR Cooperative Extension
- Staff participated (help to organize and presented) at the Desert Green Conference held in Las Vegas on November 14-15. Staff participated in the CTN training CEU programs held in Reno (November 5). Staff made a presentation at the Helena Chemical CEU training program held on October 29 and at the International Society of Arboriculture Training Seminar on October 3 (agenda attached). Pesticide safety training was conducted for the City of Reno on October 22 and 23.
Staff toured the Churchill Vineyards and assisted with strychnine production at warehouse;
- USDA-SITC: Copies of the USDA-SITC monthly activity reports (October, November and December) are available from NDA Environmental Services Field Supervisor C. Moses.

EXPORT CERTIFICATION: Peggy McKie, Joe Starnes
USDA and Canada have entered into a pilot program allowing fresh onions from Nevada to enter Canada without USDA inspection. The pilot program started January 20, 2013 and will continue until October 2014 at which time it may be extended, reviewed, or the inspection requirement may be reinstated. NDA conducted 645 onion inspections for shipment to Canada in calendar year 2013

GAP: Ashley Jeppson

Two Good Agriculture Practices (GAP) audits were performed during the last quarter. Three field assessments were performed. Approximately 65 producers, health officials, agriculture students, and school garden representatives received training on GAP. Two producers received on-farm outreach on GAPs.

NOXIOUS WEEDS: Robert Little, Jamie Greer

--The hearing for the removal of mayweed chamomile from the state prohibited seed list was held in December and the final ruling was that no changes will be made to our Nevada list.

- NDA Noxious Weed Program has drafted a MOU to be used with counties to use state funds to perform abatements. Program coordinators will be presenting information for all county commissioners in April regarding noxious weeds in each county and future changes for more effective statute enforcement.
- NRS and NAC regarding noxious weeds still being reviewed and revisions have been compiled for NRS statute changes in 2015

NURSERY: Peggy McKie, Xenia Duranovic, Marlea Stout

Nursery program staff from Las Vegas are working closely with NDA Plant Pathologist Dr. Shouhua Wang to identify a plant disease infesting containerized Mediterranean fan palms imported from out of state. Infested palms are currently being red-tagged, removed from sale and held until the disease is identified and effective control methods determined. In March, Nursery program manager Peggy McKie and inspector Xenia Duranovic will be conducting nursery stock care and condition training for Wal-Mart store managers in the Las Vegas area. The training was requested by Wal-Mart's corporate compliance office in response to a fine issued by NDA to Wal-Mart Stores Inc for continued violations of the care and condition section of Nevada's nursery regulations.

ORGANIC: Steve Marty

The NDA Organic Certification Program has completed annual on-site inspections for all 44 clients, with three pending new applications. Renewal applications are due March 31st, and clientele is projected to increase slightly for 2014. NDA has dedicated additional resources to the program, including a new staff member as well as marketing efforts aimed at increasing program presence. The program will undergo its mid-term audit the week of July 21st in order to maintain accreditation with USDA. The Nevada Organic Advisory Council held a public meeting on February 7, 2014. Meeting minutes will be available on the NDA website.

OTHER GRANTS: Ashley Jeppson

-- --Farm to School

Three school garden food safety trainings were provided in northern Nevada. Two Good Agriculture Practices trainings were provided; One in Southern Nevada and Northern Nevada. One lecture was provided at the University of Nevada Reno on State food safety regulations, food safety, and NDA programs.

--Federal State Marketing Improvement Program:

Surveys were disseminated to the Hispanic community on whether they are interested in agriculture production, purchasing Nevada crops, and what resources they need in order to produce/purchase Nevada crops. A Spanish-language website was posted to provide educational materials pertaining to high desert agricultural practices. An ethnic crop trail was performed involving the cultivation of various ethnically specific crops in order to encourage agriculture production by the Nevada Hispanic community.

PCO LICENSING AND ENFORCEMENT: Robert Leavitt, Scott Cichowlaz, Kathleen Bednarz, Jay Steele, Suzanne Suter

The PCO Licensing and Enforcement Program has completed annual relicensing for over 450 pest control companies, approximately 90 percent of the total companies licensed to work in Nevada. All companies which submitted complete applications before the end of 2013 have been relicensed. All licensing forms were updated to include Social Security numbers and business license numbers to comply with SB 21 of 2013.

The Program's Continuing Education effort has approved 66 classes with an expectation of approximately 120 approved courses for 2014. Courses vary from one to eight hours of continuing education per class.

The Program's Continuing Education effort also included participation in the Pest Certification and Licensing Workshop (75 attendees) and the Nevada Pest Expo (approximately 400 attendees). The Continuing Education Program includes Nevada pest control laws and regulations and coordinates with the NDA Environmental Compliance Program on worker safety and personal protective equipment. In addition, pest control sturdy manuals are being updated.

The Program's Enforcement effort continues to ensure compliance with Nevada pest control laws and regulations. In particular, enforcement actions or warnings were issued to unlicensed companies or individuals operating in the State, licensed companies advertising for pest control services their licenses did not cover, and companies performing improper applications.

Program personnel also worked on proposed changes to Nevada's pesticide laws (Nevada Revised Statutes section 555) and regulations (Nevada Administrative Codes 555). Proposed changes were to clarify language, unify definitions, and streamline operations.

PLANT PATHOLOGY: PLANT PATHOLOGY: Shouhua Wang, John Rolshoven, Rachel Bomberger.

2013 USDA CAPS and Farm Bill surveys for a number of exotic or regulated pathogens and nematodes are being conducted. Hundreds of plant and soil samples collected in last fall have been analyzed in the laboratory. A serious pear decline phytoplasma strain was first found in Nevada nursery. We also recently detected *Phytophthora parastica* from Mediterranean fan palm showing lethal bud rot. To our knowledge, this is the first detection from Mediterranean fan palm in the US. The laboratory also tested more than 4,000 potato leaf samples for viruses for nuclear seed potato certification. Shouhua Wang and Rachel Bomberger recently completed USDA Proficiency Test for molecular identification of citrus greening disease. Results are pending for review by APHIS-PPQ National Plant Protection Laboratory Accreditation Program (NPPLAP). NPPLAP has conducted an offsite audit for the NDA plant pathology laboratory for the NPPLAP accreditation.

RODENT CONTROL PI rationed out and sold all 119 (100 oz) jugs of strychnine paste that were made in November 2013 as of February 4th. We have made arrangements with our supplier to purchase ~3 times the amount of raw product that was purchased previously and hope to receive and mix the final product by the end of this month. Currently we have standing orders for an additional 70 jugs and feel that the demand will continue to grow as the ground thaws. The pump we have been using for the last twenty years to mix the product burned out during our last mixing and needed to be replaced. To recover the replacement cost of the new pump an additional charge of \$2-\$3 will be added to the cost of each jug.

SEED CERTIFICATION

Certification activities for the 2013 alfalfa, small grain, and potato seed crops have been completed. 2,153 acres of alfalfa seed and 1,128 acres of small grain seed were certified based on field inspection and laboratory analysis. 230 acres of seed potatoes met certification requirements based on field inspection, laboratory analysis, and winter grow-out analysis. The Seed Certification Program has been working cooperatively with Oregon State University to develop and implement updated seed potato certification standards and subsequently enter into agreement with USDA under the State National Harmonization Program for seed potatoes. The NDA Seed Laboratory has successfully undergone annual review and maintains accreditation as an AOSA lab. Service/public samples increased slightly, though the bulk of seed analyses are still associated with certification and regulatory samples. The Nevada Alfalfa Seed Advisory Board held a public meeting on 1/16/14, and meeting minutes are available on the NDA website. Alfalfa and small grain certified seed supplies are reported to coincide well with projected demand, and acreage is not expected to increase substantially as a result of new contracts for 2014. Certified seed potato acreage is expected to increase substantially for 2014.

SPECIALTY CROP BLOCK Released 2014 Request For Proposal.

6B

*Request Board
approval for use of
Alfalfa Seed
Research and
Promotion Account
Funds

(Attachment)

*Possible Action

**Minutes
Public Meeting of the Nevada Alfalfa Seed Advisory Board
January 16, 2014**

University of Nevada Cooperative Extension
810 Sixth Street
Lovelock, NV 89419

1. Call to Order

Meeting called to order 2:15 p.m.

2. Roll Call

Council Members Present: Walter Brinkerhoff (chairman), Mike Phillips, Jim List, Mike Gibson, Jose Arias, Dan Hetrick

Members of the Public and Staff: John Hafen, Gail Munk, Steve Marty

3. Introductions

4. Approval of Agenda

A motion to approve the agenda as offered was made by Mike Phillips, seconded by Jim List, and approved by a vote of 6-0.

5. Approval of Minutes From Previous Meeting

A motion to approve the minutes from the January 10, 2013 meeting of the Nevada Alfalfa Seed Advisory Board as offered was made by Mike Phillips, seconded by Jim List, and was passed by a vote of 6-0.

6. Public Participation

None

7. New Business

A) Nevada Department of Agriculture update concerning the balance of the Nevada Alfalfa Seed Research and Promotion Account **(Informational)**

Steve Marty stated that the current balance of the Alfalfa Research and Promotion Account is \$60,878.57, and that the 2013 National Alfalfa and Forage Alliance dues and a Board-approved donation of \$18,870.35 had been paid from the account since the last Board meeting.

B) Discussion and action regarding the approval of funds from the Alfalfa Seed Research and Promotion Account to be used to cover travel expenses for a Board member to attend the 2014 National Alfalfa and Forage Alliance (NAFA) Washington D.C. Fly-in event **(Action)**

A motion to approve the use of funds from the Alfalfa Seed Research and Promotion Account to cover NAFA Fly-in event travel expenses for two Nevada alfalfa seed producers, not to exceed \$5,000, was made by Jim List, seconded by Mike Gibson, and passed by a vote of 6-0.

C) Discussion and action concerning payment of the 2014 NAFA membership dues **(Action)**

Walter Brinkerhoff asked the group if the Board should pay the minimum dues for 2014, or include an additional donation, as had been done in 2013. Dan Hetrick stated that he preferred that the Board pay the minimum dues and allocate funds toward a specific research project. A motion to pay the 2014 NAFA dues, when assessed, from the Alfalfa Seed Research and Promotion Account was made by Mike Phillips, seconded by Walter Brinkerhoff, and passed by a vote of 6-0.

D) Discussion and action regarding current research needs of Nevada's alfalfa seed production industry **(Action)**

During the Nevada Seed Council meeting that preceded this meeting of the Nevada Alfalfa Seed Advisory Board, Walter Brinkerhoff stated that an EPA 24(c) registration may have been acquired for the Dow AgroSciences Transform WG insecticide product to be used on alfalfa seed crops in Washington. This topic was revisited during this portion of the meeting, and a motion to pursue EPA 24(c) registration for Transform WG in Nevada was made by Walter Brinkerhoff, seconded by Mike Phillips, and approved by a vote of 6-0. A letter of support is to be drafted by the Alfalfa Seed Advisory Board, and a letter of support is to be sourced from Dow AgroSciences.

8. Schedule Next Meeting

The next meeting of the Nevada Alfalfa Seed Advisory Board was scheduled for November 13, 2014 at 1:30 p.m. The meeting is to be held at the Lovelock Cooperative Extension office and video-conference is to be available at the Winnemucca and Reno extension offices.

9. Adjourn

A motion to adjourn was made and the meeting adjourned at 2:35 p.m.

DRAFT

6C

*Request Board
approval for payment
of 2014 NAFA dues
from Alfalfa Seed
Research and
Promotion Acct.

(Attachment)

*Possible Action

**Minutes
Public Meeting of the Nevada Alfalfa Seed Advisory Board
January 16, 2014**

University of Nevada Cooperative Extension
810 Sixth Street
Lovelock, NV 89419

1. Call to Order

Meeting called to order 2:15 p.m.

2. Roll Call

Council Members Present: Walter Brinkerhoff (chairman), Mike Phillips, Jim List, Mike Gibson, Jose Arias, Dan Hetrick

Members of the Public and Staff: John Hafen, Gail Munk, Steve Marty

3. Introductions

4. Approval of Agenda

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5. Approval of Minutes From Previous Meeting

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6. Public Participation

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7. New Business

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9. Adjourn

A motion to adjourn was made and the meeting adjourned at 2:35 p.m.

DRAFT

6D

*Adoption of
Permanent
NAC 587.340

\$25

Certificate of Origin
fee for processing

(Attachment)

*Possible Action

**PROPOSED REGULATION OF THE
STATE QUARANTINE OFFICER**

LCB File No. R019-13

July 31, 2013

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 561.153 and 587.360.

A REGULATION relating to agriculture; revising provisions concerning certain certifications relating to agricultural products and farm equipment; and providing other matters properly relating thereto.

Section 1. NAC 587.340 is hereby amended to read as follows:

- 587.340 1. The fees for the inspection and certification of potatoes at their point of shipping will be determined by agreement between the State Quarantine Officer and the processor of the potatoes. If those fees will exceed \$2,000 in a 30-day period, the processor of the potatoes must provide to the Department a surety bond or another form of security that is satisfactory to the Director to guarantee the payment of the fees for the 30-day period immediately succeeding the date the security is provided. The fees will not be less than:
- (a) The actual cost of providing the inspection and certification services; and
 - (b) The fee charged in accordance with the contract between the Department and the Federal Government for certifying that the potatoes comply with the standards and conditions established by the Federal Government.
2. The fees for inspection, grading or certification of other agricultural products:

or of a foreign country before those agricultural products may be exported to that state or country, the State Quarantine Officer will impose a fee of \$7 per acre for the inspection.

6. If the State Quarantine Officer or his or her designee issues a phytosanitary certificate, an export certificate for processed plant products, *a certificate of origin*, or a free-sale certificate as required by the government of a state or of a foreign country before agricultural products *or farm equipment* may be exported to that state or country, the State Quarantine Officer:

(a) Will impose a fee of \$25 ~~[if the shipment of agricultural products is made for commercial purposes;]~~ ; and

(b) ~~[Will not impose a fee if the shipment of agricultural products is made for noncommercial purposes; and~~

~~—(c)]~~ Will impose any fee required to be collected and passed through to the United States Department of Agriculture.

7. As used in this section:

(a) “*Certificate of origin*” means *a certificate which certifies that the shipment of agricultural products or farm equipment, or any combination thereof, originated in the State of Nevada and that the agricultural products or farm equipment, or combination thereof, is free from infestation in accordance with NRS 561.147.*

(b) “Export certificate for processed plant products” has the meaning ascribed to it in 7 C.F.R. § 353.1.

~~[(b)]~~ (c) “Free-sale certificate” has the meaning ascribed to it in paragraph ~~[(c)]~~ (d) of subsection 4 of NAC 587.345.

~~[(c)]~~ (d) “Phytosanitary certificate” has the meaning ascribed to it in NRS 555.23575.

(b) “Export certificate for processed plant products” has the meaning ascribed to it in 7 C.F.R. § 353.1.

~~[(b)]~~ (c) “Federal phytosanitary certificate” means a phytosanitary certificate issued pursuant to federal law.

~~[(e)]~~ (d) “Free-sale certificate” means a certificate that certifies that the plants or plant products being exported are the same type of plants or plant products freely marketed and for sale in the State of Nevada.

~~[(d)]~~ (e) “State phytosanitary certificate” means a phytosanitary certificate that documents the origin and, if required, the inspection of plants and unprocessed or unmanufactured plant products that do not qualify for a federal phytosanitary certificate.

6E

*Request Permission to
go to workshop and
hearing for NAC 555
changes related to
Pest Control Operator
licensing

(Attachment)

*Possible Action

**PROPOSED REGULATION OF THE DIRECTOR OF
THE STATE DEPARTMENT OF AGRICULTURE**
LCB File No. _____

... DATE ...

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1, 2, 3, 4, 5, 6, 14, 16, 20 and 23, NRS.400; §7, NRS 555.345 and NRS 555.400; §9, NRS 555.290, NRS 555.330 and NRS 555.400; §§8 and 10 NRS 555.300 and 555.400; §§11, 12 and 13, NRS 555.290 and NRS 555.400; §§15 and 22, NRS 555.400 and 561.105; §17, NRS 555.3507 and NRS 555.400; §18, NRS 555.310 and NRS 555.400; §§19 and 25, NRS 555.390 and NRS 555.400; §21, NRS 555.380, NRS 555.390 and NRS 555.400; §24, NRS 555.355, NRS 555.400 and NRS 561.105.

A REGULATION relating to pesticides; revising provisions governing the records and reports of certain persons engaged in the application of pesticides; revising provisions governing license types and categories; revising provisions governing pest control business locations; defining spot treatments for certain persons engaged in the application of pesticides; revising provisions governing the submission of wood-destroying pests inspection reports; revising preconstruction treatment tagging requirements, revising certain fees for persons engaged in the application of pesticides; revising insurance limits, revising continuing education requirements, making various other changes to provisions relating to the application of pesticides; and providing other matters properly relating thereto.

Section. 1. *NAC 555.2542 “Livestock” defined. (NRS 555.400)*
“Livestock” has the meaning ascribed to it in NRS 571.022.

Sec. 2. *NAC 555.2545 “Location principal” defined. (NRS 555.400)*
“Location principal” is a principal as ascribed in NAC 555.256 who:
1. Is the only principal at a pest control business location if the pest control company has more than 1 business location; or
2. Has been designated by a primary principal of the pest control business licensed pursuant to NAC 555.370 as the person responsible for the daily supervision of the category or categories of pest control performed at that business location of the pest control business.

Sec. 3. *NAC 555.2555 “Primary principal” defined. (NRS 555.400)*
“Primary principal” means a principal who:
1. Is the only principal for a pest control business; or
*2. Has been designated by a pest control business licensed pursuant to NAC 555.370 as the person responsible for the **[daily]** supervision of the category or categories of pest control performed by ~~each business location of~~ the pest control business **[within this State]**.*

(Added to NAC by Dep't of Agriculture, eff. 12-10-92; A by R033-01, 5-1-2002)

Sec. 4. NAC 555.2569 "Spot treatment" defined (NRS 555.400). *"Spot treatment" means:*

1. *For outdoor applications a "spot treatment" is defined as an area that is of a size that is no more than 2 feet by 2 feet, non-contiguous and is less than 1/10 of the total treatment area.*
2. *For indoor applications a "spot treatment" is defined as an application to limited areas on which insects are likely to occur, but which will not be in contact with food or utensils and will not ordinarily be contacted by people. These areas may occur on floors, walls, and bases or undersides of equipment. A spot treatment will not exceed 2 square feet, be non-contiguous and is less than 1/10 of the total treatment area.*

Sec. 5. NAC 555.270 Types of licenses; restrictions on issuance; prerequisites to perform certain pest control work with fumigants. (NRS 555.400)

1. The Director may issue the following types of licenses to applicants who have the appropriate qualifications:

(a) A license authorizing the holder to conduct pest control ~~[from any business location]~~ in any category of pest control in which a primary principal of the business has been qualified by examination.

(b) For pest control personnel:

(1) Except as otherwise provided in subsection 3, a general license authorizing the holder to perform pest control work in a specific category or categories.

(2) A restricted license authorizing the holder to perform only certain types of pest control work, including, without limitation, pest control work restricted to inspections for wood-destroying pests or restricted to a specific:

- (I) Host;
- (II) Site;
- (III) Pest; or
- (IV) Pesticide.

(3) An Inactive license that reflects licensing, but which prohibits the license holder from doing any pest control services for compensation. These individuals are not associated with a pest control business.

2. An operator or agent will be issued a license only in those categories where he or she has a qualified primary principal *or location principal*.

3. The Director will not issue a general license authorizing a primary principal or operator to perform pest control work in the category of structural pest control if that work is limited to preconstruction treatment.

4. An applicant who wishes to perform pest control work with fumigants to control rodents in underground burrow systems located in noncrop areas, crop areas or orchards must:

- (a) Obtain a restricted license for that purpose;

(b) Provide the Department with proof of insurance coverage for the application of fumigants to control rodents in underground burrow systems located in noncrop areas, crop areas or orchards; and

(c) Maintain the insurance coverage after receiving such a license for the period during which he or she holds the license.

[Dep't of Agriculture, part No. 55.32, eff. 6-1-59; A 7-1-69; 8-1-74; 1-17-77; + part No. 55.33, eff. 6-1-59; A 7-1-69; 8-1-74; 1-17-77; 6-11-80]—(NAC A 2-5-82; 1-19-84; 12-10-92; R033-01, 5-1-2002; R052-06, 6-28-2006)

Sec. 6. NAC 555.280 Fields and categories. (NRS 555.400)

1. The following fields are established for the licensing of pest control personnel:

(a) Aerial—The use of aircraft on standing or running water, rangeland *non-cropland, forests* or cropland.

(b) Agricultural ground—The use of ground equipment on rangeland, *non-cropland, forests*, cropland or ~~[animals]~~ *livestock*.

(c) Urban structural—The use of ground equipment in urban areas and in, on or around structures.

2. The following categories are established for the licensing of pest control personnel under the fields of licensing:

(a) Aerial:

(1) Insecticides—The application of insecticides, miticides and acaricides.

(2) Herbicides—The application of herbicides and plant regulators.

(3) Desiccants and defoliants—The application of desiccants and defoliants.

(4) Fungicides and bactericides—The application of fungicides, bactericides and nematicides.

(b) Agricultural ground:

(1) Insecticides—The application of insecticides, miticides and acaricides.

(2) Herbicides—The application of herbicides and plant regulators.

(3) Desiccants and defoliants—The application of desiccants and defoliants.

(4) Fungicides and bactericides—The application of fungicides, bactericides and nematicides.

(5) ~~[Rodenticides]~~ *Vertebrates* —~~[The application of rodenticides]~~ *For the control of vertebrate pests (excluding "predator" pests as defined in NAC 555.600.22) , in, on, or around agricultural establishments (excluding, but not limited to, agricultural dwelling units, agricultural business office buildings, agricultural Industrial and Institutional complexes, warehouses, and ornamental and turf plantings), rangeland, forests, non-cropland and croplands. This category includes the use of fumigants for burrowing rodents.*

(c) Urban and structural:

(1) ~~[Ornamental and turf]~~ *Limited Landscape*—The control of insects, ~~[weeds,]~~ vertebrates and plant diseases and the use of plant regulators on ornamentals and turf in urban areas, including, without limitation, fruit trees in urban areas if the fruit trees are not used for commercial purposes.

(2) Industrial and institutional—The control of insects and vertebrates in, on or around industrial complexes, institutional complexes and dwelling units.

(3) Structural—The control of wood-destroying pests, inspection for wood-destroying pests and inspection for conditions conducive to infestations of wood-destroying pests.

(4) Fumigation—The use of poisonous and lethal fumigants.

(5) Aquatic—The control of insects, weeds and vertebrates in aquatic areas that are used or are intended for use in and around industrial complexes, institutional complexes and dwelling units.

(6) **[Right-of-way] Weeds**—The control of weeds in the maintenance of *landscapes, turf*, rights-of-way, including, without limitation, public roads, power lines, pipelines and railway rights-of-way, *the term does not include aquatic weeds*.

(7) Preservation of wood—The application of pesticides directly to wood or wood products that are not a part of a habitable structure to prevent or control the degradation of the wood or wood product by a wood-destroying organism, including, without limitation, a fungus or bacterium.

[Dep't of Agriculture, part No. 55.32, eff. 8-1-74; A 1-17-77; 6-11-80]—(NAC A 2-5-82; R033-01, 5-1-2002)

Sec. 7. NAC 555.290 Miscellaneous requirements and restrictions; amendment, inactivation and denial of license; *submission of fingerprints* . (NRS 555.345; NRS 555.400)

1. A person may not be employed or retained in the position of a *location principal*, principal or primary principal for more than one pest control business at any time.

2. Each primary principal, *location principal*, principal, operator or agent of a pest control business shall:

(a) Ensure that the license issued to him or her by the Director is on his or her person or in his or her service vehicle while engaging in pest control; and

(b) Produce the license upon request by the Director or a person designated by the Director as a field agent or inspector pursuant to subsection 2 of NRS 561.225.

3. The primary principal or *location principal* of a pest control business shall, within 15 days after the change, notify the Director of any change in the status of authority of any primary principal, *location principal*, principal, operator or agent of the pest control business or any change in the information given on the application for the license for the pest control business.

4. A license is not assignable or transferable. If a change in ownership occurs, a new application and fee must be submitted. No fee is required for a change in the name of the business if the application for the change is accompanied by a declaration under penalty of perjury that there is no change in ownership.

5. A separate licensing fee for a principal, operator or agent must be paid by the employer. No additional fee is required for a designation as a primary principal.

6. A principal or operator may apply to the Director for amendment of his or her license to include additional categories of pest control or have restrictions removed. Except as otherwise provided in NAC 555.325, upon examination, the principal or operator is entitled to have the license so amended without any additional licensing fee.

7. Any former licensee whose license has not been active during the 2 years immediately preceding his or her application for a new license must demonstrate his or her qualifications for the license. The demonstration must include written or oral examinations, or both, currently in use to determine the qualifications of any other applicants.

8. A licensee who cannot provide services in a particular category of pest control because he or she fails to meet the requirements for insurance for that category may apply to have his or her license for that category declared inactive. The license for that category may be reactivated at any time upon submission of proof of insurance to the Director.

9. The Director may refuse to issue a license to a pest control business in a name that is:

- (a) The same or similar to a name used by another licensee;
- (b) Likely to be confused with a governmental agency or trade association; or
- (c) Misleading.

10. An agent shall not apply any pesticide or provide a recommendation or any other advice to a person concerning the use of a pesticide.

11. The Director may refuse to issue a license to an applicant to perform pest control work if, at the time the applicant submits the application:

- (a) A fine imposed against the applicant pursuant to NAC 555.530 remains unpaid; or
- (b) Any hearing or other matter that is within the jurisdiction of the Director is pending against the applicant.

12. A primary principal applicant shall submit to a background check as a condition for licensing.

- (a) Upon notification of clearance, a primary principal applicant must:*
 - (1) be issued a primary principal license within 90 days of clearance, or*
 - (2) if he or she fails to obtain a principal license within 90 days the applicant will be required to submit to another fingerprint and background check application.*

[Dep't of Agriculture, part No. 55.32, eff. 6-1-59; A 7-1-69; 8-1-74; 1-17-77; + part No. 55.33, eff. 6-1-59; A 7-1-69; 8-1-74; 1-17-77; 6-11-80]—(NAC A 2-5-82; 10-17-86; 12-10-92; R033-01, 5-1-2002; R052-06, 6-28-2006; R062-10, 1-13-2011)

Sec 8. NAC 555.320 Qualifications for examination. (NRS 555.300, 555.400)

1. Except as otherwise provided in NRS 555.300 and NAC 555.325, an applicant who is applying for an examination as a principal must meet the requirements set forth in NRS 555.300 before being examined and must file

proof of meeting the following requirements when submitting an application for a pest control examination:

(a) Two years of practical experience in the application of pesticide or related pest control in the initial category or categories applied for; or

(b) Six months of practical experience in the application of pesticide or related pest control in the initial category or categories applied for and proof of not less than 16 college credit hours in biological sciences of which not less than 8 hours must be in subjects directly related to the field of pest control in which the applicant wishes to be licensed.

2. An applicant who is applying for examination as an operator or agent is not required to have reached the age of majority nor is he or she required to have:

(a) The practical experience in the application of pesticide required of a principal pursuant to paragraph (a) of subsection 1; or

(b) The practical experience and education required of a principal pursuant to paragraph (b) of subsection 1.

3. As used in this section:

(a) "Credit hours in biological sciences" includes courses in, but not limited to, biology, botany, entomology, zoology, agronomy, horticulture, biochemistry, nematology, phytopathology and courses similar or similarly derived.

(b) "Directly related to the field of pest control" courses include economic entomology, phytopathology and similar courses concerning the identification and control of pests through the use of pesticides.

(c) "Practical experience" means experience that is substantiated by work records, notarized statements verified by work records or any other documentation acceptable to the Department. The term does not include any experience obtained by an applicant while engaged in activity as an agent, *or while a license is in inactive status*.

(d) "Related pest control" experience includes technical field representative work, termite inspection for private or governmental entities or acting as a consultant on the staff of an area or regional consulting firm. Other experience may be evaluated.

[Dep't of Agriculture, part No. 55.34, eff. 8-1-74; A 1-17-77]—(NAC A 12-10-92; R033-01, 5-1-2002; R052-06, 6-28-2006)

Sec. 9. NAC 555.370 License in business of pest control: Qualifications. (NRS 555.290, 555.330, 555.400) An applicant for a license to engage in the business of pest control must provide the Department with:

1. Proof that a primary principal of the business is licensed in the category or categories in which the business will be conducted.

2. Proof that the applicant has insurance for public liability and property damage which:

(a) Covers each occurrence of damage to persons or to property from chemicals, chemical drift and equipment used in the operations of the business

including any air operations and any use of ground equipment belonging to aerial applicators.

(b) Provides the following minimum amounts of coverage:

(1) For licensees using ground equipment:

(I) For each occurrence of bodily injury, ~~[\$10,000]~~ \$50,000;

(II) For aggregate bodily injury, ~~[\$20,000]~~ \$100,000;

(III) For each occurrence of property damage, ~~[\$10,000]~~ \$50,000; and

(IV) For aggregate property damage, ~~[\$20,000]~~ \$100,000.

(2) For licensees using aircraft equipment:

(I) For each occurrence of bodily injury, \$100,000;

(II) For aggregate bodily injury, \$300,000; and

(III) For each occurrence of property damage, \$100,000.

(c) Provides that not less than 10 days before extending, restricting, canceling or changing the coverage as certified or paying any claim under the policy, the insurer will give written notice of that action to the Director.

~~[3.—Evidence that the business has the necessary type or types of equipment to perform satisfactory work in the field and categories of pest control to be undertaken. The equipment must be capable of applying pesticides satisfactorily under normal working conditions.~~

~~4.—A certificate of incorporation or a copy thereof, issued by the Secretary of State, for the business if it is a corporation.]~~

[Dep't of Agriculture, part No. 55.35, eff. 8-1-74; A 1-17-77]—(NAC A 1-19-84; 12-10-92; R033-01, 5-1-2002)

Sec. 10. NAC 555.340 Examinations: Contents; passing score; retesting; exclusion. (NRS 555.300, 555.400)

1. Each applicant for a license as a principal or operator must pass a written examination to demonstrate his or her knowledge of:

(a) Operations for pest control;

(b) Pertinent laws and regulations;

(c) Safety in handling and dispensing pesticides;

(d) Pests;

(e) An integrated approach to pest management; and

(f) Recommended practices for controlling pests.

(g) The English language, including reading, writing, and spelling.

2. The examination for:

(a) Each principal ~~[or operator]~~ consists of a ~~[general]~~ *core* examination ~~[required for all applicants]~~, *a laws examination*, and a specific examination for each category of pest control in which the applicant has requested to be examined.

(b) *Each operator consists of a core examination, and a specific examination for each category of pest control in which the applicant has requested to be examined.*

(c) Each agent consists of an examination based upon a presentation.

3. The Director may require an applicant to pass a practical examination that demonstrates the ability properly to inspect or use and apply pesticides in any category of pest control for which the applicant applies.
4. The passing score is 70 percent for each examination for a principal and 65 percent for each examination for an operator or agent.
5. An applicant who fails to receive a passing score on a section of the examination may be retested upon the expiration of the following minimum waiting periods:
 - (a) If applying for an operator's license, 7 days.
 - (b) If applying for a principal's license, 10 days.
6. Any applicant who uses an unauthorized aid during an examination or who copies or removes any portion of an examination must be excluded from the remainder of the examination and must not be allowed to take another examination for at least 6 months.

[Dep't of Agriculture, part No. 55.34, eff. 8-1-74; A 1-17-77; 6-11-80]—(NAC A 2-5-82; 10-17-86; A by Div. of Agriculture by R127-97, 6-23-98; A by Dep't of Agriculture by R081-99, 11-18-99; R033-01, 5-1-2002; R052-06, 6-28-2006; R062-10, 1-13-2011)

Sec. 11. NAC 555.350 Application for license: Form; pest control business. [Effective until the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.] (NRS 555.290, 555.400)

1. Each application for a license must be made on a form provided by the Director.
2. Each application for a license for a pest control business must include, without limitation:
 - (a) The name of the person applying for the license, the name under which the applicant intends to engage in the business of pest control, the street address of the residence of the applicant and the street address of the pest control business.
 - (b) The name ~~[and mailing address of the residence]~~ of each partner, if the applicant is a partnership.
 - (c) ~~[The name of each officer, the state in which the corporation was incorporated, the date on which the corporation was incorporated and the name of each person holding or controlling 25 percent or more of the capital stock of the corporation]~~ *A copy of the Charter and current list of officers*, if the applicant is a corporation.
 - (d) The street address, telephone number, facsimile number, electronic mail address, if any, federal identification number of the pest control business, and, if the mailing address is different from the street address, the mailing address of the business.

(e) If the pest control business uses aircraft in the application of pesticides, a list that includes a description of each aircraft and the identification number assigned to the aircraft by the Federal Aviation Administration.

(f) The name, telephone number of the residence, mailing address of the residence and, if the street address is different from the mailing address of the residence, the street address of the residence of each primary principal, principal, operator and agent employed by the applicant.

(g) The category of pest control in which the applicant wishes to engage.

(h) The number of business locations in which the pest control business will operate.

(i) The address and telephone number of each such business location.

(j) The name of the primary principal *or location principal* who supervises the daily activities of the *principals*, operators *and agents* at each business location *and cell phone number, if any*.

(k) A statement that includes the status of residency of and the number of the Nevada driver's license issued to each primary principal and principal employed by the applicant.

(l) ~~[A statement certifying that each primary principal, principal and operator employed by the applicant has satisfied the requirements for continuing education set forth in NAC 555.372.]~~ *In accordance with SB 21 of 2013, each primary principal, principal, operator, and agent must indicate their Social Security Number or Individual Employer Identification Number.*

(m) In accordance with NRS 555.325, the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520.

(n) If the application is for a license in the urban structural field, a report of each pesticide that was applied within the immediately preceding 12 months. The report must include:

(1) The brand name of each pesticide that was applied;

(2) The registration number assigned to the pesticide by the Environmental Protection Agency; and

(3) A statement indicating whether the pesticide that was applied is a restricted-use pesticide.

(o) If the application is for a license in the aerial field, the number of hours of flight time that the applicant spent engaged in pest control.

(p) In accordance with SB 21 of 2013, indicate whether the pest control business has a State business license issued by the Nevada Secretary of State, if so, you are required to indicate the license number.

3. In addition to the name of the pest control business required to be included in the application pursuant to paragraph (a) of subsection 2, the applicant shall include in the application at least two alternative names for the pest control business.

[Dep't of Agriculture, part No. 55.35, eff. 8-1-74; A 1-17-77]—(NAC A 2-5-82; A by Bd. of Agriculture, 2-20-96; A by Dep't of Agriculture by R033-01, 5-1-2002; R001-03, 9-24-2003; R052-06, 6-28-2006)

Sec. 12. NAC 555.350 Application for license: Form; pest control business. [Effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.] (NRS 555.290, 555.400)

1. Each application for a license must be made on a form provided by the Director.

2. Each application for a license for a pest control business must include, without limitation:

(a) The name of the person applying for the license, the name under which the applicant intends to engage in the business of pest control, the street address of the residence of the applicant and the street address of the pest control business.

(b) The name ~~[and mailing address of the residence]~~ of each partner, if the applicant is a partnership.

(c) ~~[The name of each officer, the state in which the corporation was incorporated, the date on which the corporation was incorporated and the name of each person holding or controlling 25 percent or more of the capital stock of the corporation]~~ *A certificate of incorporation and current list of officers or a copy thereof, issued by the Secretary of State, for the business*, if the applicant is a corporation.

(d) The street address, telephone number, facsimile number, electronic mail address, if any, federal identification number of the pest control business and, if the mailing address is different from the street address, the mailing address of the business.

(e) If the pest control business uses aircraft in the application of pesticides, a list that includes a description of each aircraft and the identification number assigned to the aircraft by the Federal Aviation Administration.

(f) The name, telephone number of the residence, mailing address of the residence and, if the street address is different from the mailing address of the residence, the street address of the residence of each primary principal, principal, operator and agent employed by the applicant.

(g) The category of pest control in which the applicant wishes to engage.

(h) The number of business locations in which the pest control business will operate.

(i) The address and telephone number of each such business location.

(j) The name of the primary principal *or location principal* who supervises the daily activities of the *principals*, operators *and agents* at each business location *and cell phone number, if any*.

(k) A statement that includes the status of residency of and the number of the Nevada driver's license issued to each primary principal and principal employed by the applicant.

(l)) ~~[A statement certifying that each primary principal, principal and operator employed by the applicant has satisfied the requirements for continuing education set forth in NAC 555.372.]~~ *In accordance with SB 21 of 2013, each*

primary principal, principal, operator, and agent must indicate their Social Security Number or Individual Employer Identification Number.

(m) If the application is for a license in the urban structural field, a report of each pesticide that was applied within the immediately preceding 12 months. The report must include:

- (1) The brand name of each pesticide that was applied;
- (2) The registration number assigned to the pesticide by the Environmental Protection Agency; and
- (3) A statement indicating whether the pesticide that was applied is a restricted-use pesticide.

(n) If the application is for a license in the aerial field, the number of hours of flight time that the applicant spent engaged in pest control.

(o) In accordance with SB 21 of 2013, indicate whether the pest control business has a State business licensed issued by the Nevada Secretary of State, if so, you are required to indicate the license number.

3. In addition to the name of the pest control business required to be included in the application pursuant to paragraph (a) of subsection 2, the applicant shall include in the application at least two alternative names for the pest control business.

[Dep't of Agriculture, part No. 55.35, eff. 8-1-74; A 1-17-77]—(NAC A 2-5-82; A by Bd. of Agriculture, 2-20-96; A by Dep't of Agriculture by R033-01, 5-1-2002; R001-03, 9-24-2003; R052-06, 6-28-2006, effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings)

REVISER'S NOTE.

The regulation of the Department of Agriculture filed with the Secretary of State on May 1, 2002 (LCB File No. R033-01), which amended this section, contains the following provision not included in NAC:

“1. * * *

2. * * *

3. Section 34 of this regulation [NAC 555.350] becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children, are repealed by the Congress of the United States.”

Sec. 13. NAC 555.365 Application; Inactivating or Activating an a Primary principal, principal, or operator license in inactive status; re-instatement. (NRS 555.290, 555.400)

1. To place a valid, active primary principal, principal, or operator applicator license on inactive status, the licensee shall submit the following Information, without limitation on a form prescribed by the Director:

- (a) The name of the applicant;
- (b) Applicator license number;
- (c) Physical address;
- (d) Mailing address, if different from the physical address;
- (e) Electronic mail address, if any;
- (f) Date of birth;
- (g) Employer Identification Number or Social Security number;
- (h) Telephone number; and
- (h) Dated signature of the licensee affirming that:

1. The information provided is true and correct; and
2. The licensee shall not perform pest control services in any category while the license is inactive.

3. An inactive license expires on December 31 of each year with no grace period.

4. To renew an inactive license, the licensee shall comply with the renewal provisions at NAC 555.372 (continuing education).

5. Pay the annual license maintenance fee as prescribed in NAC 555.397.

6. Any change in information given on the application for the inactive license must be reported to the Department, in writing, within 15 days of the change.

7. In accordance with NRS 555.325, the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520.

2. Any inactive license that has not been renewed by December 31 must demonstrate his or her qualifications for the license. The demonstration must include written examinations as prescribed in NAC 555.340.

3. To activate an inactive primary principal, principal, or operator applicator license, the licensee shall:

- (a) Comply with the provisions at NAC 555.360.
- (b) Pay the license fee as prescribed in NAC 555.397.

Sec. 14. NAC 555.290 Miscellaneous requirements and restrictions; amendment, inactivation and denial of license. (NRS 555.400)

1. A person may not be employed or retained in the position of a principal or primary principal for more than one pest control business at any time.

2. Each primary principal, principal, operator or agent of a pest control business shall:

(a) Ensure that the license issued to him or her by the Director is on his or her person or in his or her service vehicle while engaging in pest control; and

(b) Produce the license upon request by the Director or a person designated by the Director as a field agent or inspector pursuant to subsection 2 of NRS 561.225.

3. The primary principal of a pest control business shall, within 15 days after the change, notify the Director of any change in the status of authority of any primary principal, principal, operator or agent of the pest control business or any change in the information given on the application for the license for the pest control business.

4. A license is not assignable or transferable. If a change in ownership occurs, a new application and fee must be submitted. No fee is required for a change in the name of the business if the application for the change is accompanied by a declaration under penalty of perjury that there is no change in ownership.

5. A separate licensing fee for a principal, operator or agent must be paid by the employer. No additional fee is required for a designation as a primary principal.

6. A principal or operator may apply to the Director for amendment of his or her license to include additional categories of pest control or have restrictions removed. Except as otherwise provided in NAC 555.325, upon examination, the principal or operator is entitled to have the license so amended without any additional licensing fee.

7. *Except as otherwise provided in NAC 555.365, any [Any]* former licensee whose license has not been active during the 2 years immediately preceding his or her application for a new license must demonstrate his or her qualifications for the license. The demonstration must include written or oral examinations, or both, currently in use to determine the qualifications of any other applicants.

8. A licensee who cannot provide services in a particular category of pest control because he or she fails to meet the requirements for insurance for that category may apply to have his or her license for that category declared inactive. The license for that category may be reactivated at any time upon submission of proof of insurance to the Director.

9. The Director may refuse to issue a license to a pest control business in a name that is:

- (a) The same or similar to a name used by another licensee;
- (b) Likely to be confused with a governmental agency or trade association; or
- (c) Misleading.

10. An agent shall not apply any pesticide or provide a recommendation or any other advice to a person concerning the use of a pesticide.

11. The Director may refuse to issue a license to an applicant to perform pest control work if, at the time the applicant submits the application:

(a) A fine imposed against the applicant pursuant to NAC 555.530 remains unpaid; or

(b) Any hearing or other matter that is within the jurisdiction of the Director is pending against the applicant.

[Dep't of Agriculture, part No. 55.32, eff. 6-1-59; A 7-1-69; 8-1-74; 1-17-77; + part No. 55.33, eff. 6-1-59; A 7-1-69; 8-1-74; 1-17-77; 6-11-80]—(NAC A 2-5-82;

10-17-86; 12-10-92; R033-01, 5-1-2002; R052-06, 6-28-2006; R062-10, 1-13-2011)

Sec 15. NAC 555.374 Continuing education: Prerequisites for accreditation and receipt of credit; duties of sponsor; acceptable activities. (NRS 555.400, NRS 561.105)

1. To obtain accreditation from the Director for a course of continuing education, the sponsor of the course must submit to the Department, at least [4] 7 day before the first day of the course:

- (a) A detailed outline of the subject matter to be presented;
- (b) A description of the method of presentation;
- (c) A curriculum vitae or other biographical statement of the instructor; and
- (d) Any other information required in the application for accreditation.

2. To equal one unit of continuing education, the course for which the application is submitted must consist of at least 50 minutes of instruction and be directly related to:

- (a) The control or management of pests;
- (b) The classification or usage of pesticides;
- (c) The safe handling or dispensing of pesticides; or
- (d) A law or regulation concerning the use of pesticides.

3. The information required by subsection 1 must be submitted on an application prescribed by the Director.

4. The sponsor of a course accredited by the Director shall submit to the Department, within 30 days after the completion of the course, a list that includes:

- (a) The name of the course;
- (b) The course number assigned by the Director pursuant to NAC 555.375;
- (c) The number of units of continuing education that a person who successfully completes the course may receive;
- (d) The name of each person who attended the course;
- (e) The identification number assigned by the Department to the licensee, nonprimary principal commercial applicator or private applicator wishing to receive credit for completing the course;
- (f) The name of the business or governmental agency that employs the licensee, nonprimary principal commercial applicator or private applicator;
- (g) The signature of the licensee, nonprimary principal commercial applicator or private applicator; and
- (h) A statement prepared by the sponsor of the course indicating that:
 - (1) The licensee presented to the sponsor the licensee's license as a primary principal, principal or operator or any other form of identification issued by a governmental agency that includes a photograph of the licensee; or
 - (2) The nonprimary principal commercial applicator or private applicator presented to the sponsor a form of identification issued by a governmental agency that includes a photograph of the nonprimary principal commercial applicator or private applicator.

5. The sponsor of a course shall maintain a record of the information set forth in subsection 4 for at least 4 years after the completion of the course. The records must be made available to the Director upon request.

6. Except as otherwise provided in subsection 7, courses of continuing education that may be accredited by the Director include, without limitation:

- (a) A seminar;
- (b) A meeting;
- (c) An adult education class;
- (d) A correspondence class;
- (e) An Internet class;
- (f) A college or university class;
- (g) A video or other media presentation; and
- (h) Any equivalent activity approved by the Director.

7. A person who attends a meeting of the Nevada Pest Control Association may receive credit for attending the meeting without obtaining approval for the meeting pursuant to this section.

8. A person who successfully completes a course of continuing education is not entitled to receive credit for attending the course unless, at the time the sponsor of the course recorded the attendance of the person at the course, the person presented to the sponsor the identification specified in paragraph (h) of subsection 4.

9. A licensee, nonprimary principal commercial applicator or private applicator may not receive credit more than once in a calendar year for attending the same course with the same course number assigned by the Director pursuant to NAC 555.375.

10. Each activity approved in the correspondence, internet, or video or other media presentation type class of continuing education hours must include a written examination to be administered at the end of the class. Examinations administered at the end of the class must consist of ten questions per 50 minutes of contact instruction. A passing score of 70% or better will be required in order to obtain credit for the class. If the examination is failed, the licensee shall be allowed to be reexamined by taking a different examination within 30 days.

(Added to NAC by Dep't of Agriculture by R081-99, eff. 11-18-99; A by R001-03, 9-24-2003; R052-06, 6-28-2006; A by Bd. of Agriculture by R156-07, 1-30-2008; A by Dep't of Agriculture by R062-10, 1-13-2011)

Sec. 16. NAC 555.376 Continuing education: Sponsorship by Department or Cooperative Extension Service. (NRS 555.400)

1. The Director will accredit a course of continuing education sponsored by the Department if the Department complies with NAC 555.374. Such a course may be in the form of:

- (a) A meeting;
- (b) Training for a certificate to use a restricted-use pesticide; or
- (c) A video, slide or other media presentation. ~~[The video, slide or other media presentation will be available for review, by appointment, at the offices of the Department and of the Cooperative Extension Service.]~~

2. The Director will accredit training for a certificate to use a restricted-use pesticide sponsored by the Cooperative Extension Service upon compliance with NAC 555.374.

(Added to NAC by Dep't of Agriculture by R081-99, eff. 11-18-99)

Sec. 17. NAC 555.395 Primary principal *or location principal* required for each business location; suspension of license for noncompliance. (NRS 555.3507, 555.400)

1. Every person licensed to engage in pest control shall ensure that ~~[each of his or her business locations in this State]~~ *the pest control business* has a primary principal who is licensed in the appropriate category or categories of pest control.

2. *Every person licensed to engage in pest control shall ensure that each of his or her business locations has either a primary principal or location principal who is licensed in the appropriate category or categories of pest control at the business location.*

3. The Director will suspend a license for pest control ~~[30]~~ *120* days after the pest control business ceases to have a primary principal ~~[at each business location]~~. The license will remain suspended until the pest control business obtains a primary principal ~~[for each business location]~~.

4. *If the pest control business has more than 1 business location and the pest control business ceases to have a location principal who is licensed in the appropriate category or categories of pest control at that business location, the Director will suspend the pest control business location 30 days after the pest control business ceases to have a location principal who is licensed in the appropriate category or categories of pest control. The pest control business location will remain suspended until the pest control business obtains a location principal for that business location.*

(Added to NAC by Dep't of Agriculture, eff. 10-17-86; A 12-10-92; R033-01, 5-1-2002; R052-06, 6-28-2006)

Sec. 18. NAC 555.397 Fees. (NRS 555.310, 555.400)

1. ~~[Except as otherwise provided in subsection 3, an]~~ *An* applicant for a license must pay to the Director, as applicable:

(a) For examination or reexamination, a testing fee of \$25 for each category of pest control in which the applicant wishes to be examined;

(b) For licensure of a pest control business, a licensing fee of \$250;

(c) For licensure of a principal (*primary principal, location principal or principal*) or operator, a licensing fee of \$50; ~~[and]~~

(d) For licensure of an agent, a licensing fee of \$350.

2. The Director will charge a fee of \$25 to issue a duplicate license to replace a license that has been lost, mutilated or destroyed.

3. *To inactivate a principal (primary principal, location principal or principal) or operator applicator license and place it in an inactive status, an annual license maintenance fee of \$100 will be charged.*

~~[An applicant for licensure of a pest control business or principal may request a hardship fee reduction in licensing fees by submitting a written request for such a reduction to the Director. The request must include the amount of income the applicant has received from the application of pest control for at least the immediately preceding 12 months or for the duration of the business of the applicant, whichever is shorter. The Director may grant a hardship fee reduction if he or she determines that paying the fee described in subsection 1 would require the business of the applicant to cease operations or would prevent the business from beginning operations because of lack of money. If the Director grants a hardship fee reduction, the fee for licensure of a pest control business is \$50 and the fee for licensure of a principal is \$15. The Director may not grant a hardship fee reduction for a testing fee.]~~

(Added to NAC by Bd. of Agriculture by R053-00, eff. 6-15-2000; A by Dep't of Agriculture by R033-01, 5-1-2002; A by Bd. of Agriculture by R096-06, 5-31-2007)

Sec. 19. NAC 555.410 Required records and reports. (NRS 555.390, 555.400) Each person subject to the provisions of NAC 555.400 shall:

1. Keep accurate and legible records for 2 years of each property treated, showing:

(a) If the person is licensed in the aerial or agricultural ground field:

(1) The date of the treatment.

(2) The full name of the person for whom and the county where the treatment was conducted.

(3) The full name of the pilot or applicator doing the treating.

(4) The crop or site treated.

(I) For pesticide applications designated as "spot treatment" a description for the treatment site must follow the term spot treatment, without limitation, "spot treatment--treated for noxious weeds in Fields A and C" or "spot treatment along road to grain bins."

(5) The number of units treated, including, without limitation, the number of acres or miles or fraction thereof.

(6) The number, name or site identification of the field.

(7) The brand name or generic name of the pesticide that was applied, the registration number assigned to the pesticide by the Environmental Protection Agency and the dosage applied.

(8) The purpose for which the crop or site was treated.

(9) The time the treatment was started and the time the treatment was finished.

(10) The temperature at the start and finish of the treatment.

(11) The wind velocity and wind direction at the start and finish of the treatment.

(b) If the person is licensed in the urban and structural field:

(1) The date of the treatment.

(2) The address where the treatment was conducted.

(3) The full name of the applicator.

(4) The site treated, including, without limitation, the kitchen, the crawlspace beneath the structure, and the yard or area surrounding the structure.

(I) For pesticide applications designated as "spot treatment" a description for the treatment site must follow the term spot treatment, without limitation, "spot treatment--treated for ants along front of garage" or "spot treatment for broadleaf weeds in front lawn."

(5) The brand name or generic name of the pesticide that was applied and the registration number assigned to the pesticide by the Environmental Protection Agency.

(6) The total amount of any diluted pesticide and the concentration of the pesticide that was applied.

(7) If the treatment is conducted in the categories of ornamental and turf, right-of-way, aquatic or fumigation:

(I) The temperature at the start and finish of the treatment.

(II) The wind velocity and direction at the start and finish of the treatment.

(III) The area of any turf or ground treated.

(IV) The purpose for which the pesticide was applied.

(V) The area or volume fumigated.

(VI) The times at which fumigation started and finished.

(8) If the treatment is conducted in the category of structural pest control and the treatment is a preconstruction treatment, a copy of the Housing and Urban Development-National Pest Management Association Form 99-B entitled "New Construction Subterranean Termite Service Record." The Housing and Urban Development-National Pest Management Association Form 99-B is available from CBS Forms by mail at 11652 Agarwood Drive, Walton, Kentucky 41094, by telephone at (800) 324-7676 or at the Internet address <http://www.cbsforms.com/>, for the price of \$19.95 for a pack of 50 forms, plus shipping and handling, or from the United States Department of Housing and Urban Development, free of charge, at the Internet address <http://www.hud.gov/offices/adm/hudclips/forms/files/npma99b.pdf>.

2. Keep a copy of each report prepared pursuant to NAC 555.430 for 5 years after completing the report.

3. Report **[immediately]** to the Director *within 24 hours by telephone*:

(a) Any emergency dumps of pesticides by aircraft, and accidents of aircraft loaded with pesticides or ground equipment involving the spillage of pesticides; or

(b) The *accidental* spillage *of more than 1 gallon liquid or 4 pounds dry weight* at sites of operations of unmixed pesticides that are detrimental to persons, wildlife, domestic animals or crops.

4. *Licensed commercial applicators are responsible for the cost of cleanups resulting from pesticide spills in their operations.*

5. Report to the Director within 48 hours any cases of apparent pesticide poisoning requiring medical treatment.

[5.] 6. If the person is licensed in the aerial or agricultural ground field, file with the Director on forms to be furnished by him or her a monthly report of all

pest control operations, including those operations involving the use of restricted-use pesticides, for each month in which such operations occurred. The report must:

(a) Be filed on or before the 15th day of the following month; and

(b) Be filed for those periods during which no operations were conducted

unless written notification is given to the Director declaring that operations have ceased.

[6.] 7. Submit to the Director any reports or records he or she requests.

[Dep't of Agriculture, part No. 55.34, eff. 6-1-59; A 7-1-69; 5-22-72; + part No. 55.37, eff. 8-1-74; A 6-11-80]—(NAC A 2-5-82; 12-10-92; R033-01, 5-1-2002; R147-03, 1-22-2004; R052-06, 6-28-2006; R147-08, 2-11-2009; R062-10, 1-13-2011)

Sec. 20. NAC 555.428 Preconstruction treatment: Tag. (NRS 555.400)

1. *All preconstruction treatment tags must be on a form prescribed by the* [The] Department ~~[shall supply a tag for preconstruction treatment to a licensee who performs preconstruction treatment]~~. A licensee who performs a preconstruction treatment shall complete a tag pursuant to this section. The tag must include at least the following information:

(a) The name of the pest control business that performed the preconstruction treatment;

(b) The date that the preconstruction treatment was performed;

(c) The ~~[trade]~~ brand name *and Environmental Protection Agency registration number* of the termiticide that was applied;

(d) If the termiticide was diluted, the concentration of the diluted termiticide that was applied, written as a percentage of the active ingredient of the diluted termiticide that was applied;

(e) The total number of gallons of the diluted termiticide that was applied;

(f) The printed full name of the licensee who performed the preconstruction treatment;

(g) A statement indicating whether the licensee performed a preconstruction treatment to soil, a preconstruction treatment to wood, or a combination thereof;

(h) If the licensee performed a preconstruction treatment to soil, a statement indicating whether the licensee applied the termiticide vertically, horizontally, or in both manners ~~[; and~~

~~—(i) If the licensee must leave the site before completing the preconstruction treatment, a statement indicating that the preconstruction treatment is incomplete].~~

2. The information required to be included on a tag for preconstruction treatment pursuant to subsection 1 must be legible and an accurate and truthful representation of the preconstruction treatment performed.

3. Each tag for preconstruction treatment must be:

(a) Affixed securely at the site of each preconstruction treatment immediately after each application of termiticide; and

(b) Except as otherwise provided in subsections 4 and 5, prominently displayed:

(1) On the pipes for plumbing;
(2) On a board that is located at the site of the construction and includes the permit or records of inspection of the contractor of the structure under construction; or

(3) Any other location approved by the Director.

4. If the licensee performed a preconstruction treatment to soil and the soil adjacent to the exterior of the foundation was not treated during the initial treatment, after its treatment, the portion of the tag containing the information relating to the final treatment must be placed in the electrical box of the structure and must include the following information:

(a) The name of the pest control business that performed the preconstruction treatment;

(b) The full name of the licensee who performed the preconstruction treatment;

(c) The date that the final treatment was applied;

(d) The ~~trade~~ brand name and Environmental Protection Agency registration number of the termiticide that was applied;

(e) The number of gallons of the diluted termiticide that was applied; and

(f) If the termiticide was diluted, the concentration of the diluted termiticide that was applied, written as a percentage of the active ingredient of the diluted termiticide that was applied.

5. If the contractor of the structure under construction on which the preconstruction treatment is being performed requests a tag for preconstruction treatment, the licensee shall:

(a) Prepare a duplicate tag;

(b) Print the word "DUPLICATE" in capital letters on the tag; and

(c) Post the tag on the site in the location requested by the contractor or deliver the tag to the contractor.

(Added to NAC by Dep't of Agriculture by R033-01, eff. 5-1-2002; A by R062-10, 1-13-2011)

Sec. 21. NAC 555.430 Inspection or application of pesticide for wood-destroying pests: Report; tag; restriction on application. (NRS 555.380, 555.390, 555.400)

1. Each person who:

(a) Makes an inspection for wood-destroying pests;

(b) Gives any oral or written statement relating to such an inspection; or

(c) After the construction of a structure, makes an application of a pesticide to eradicate wood-destroying pests, shall write and deliver a report of the inspection or the application of a pesticide to the person requesting the inspection or application, or a designated agent thereof, not later than 5 days after the inspection or the application. ~~[The report must be on a numbered form supplied]~~

All reports must be in a manner prescribed by the Department. The terms "Report" or "report" as used in this section will mean a complete wood-destroying pests inspection report.

(1) A written report may be on a numbered form supplied by the Department; or

(2) An electronic version of the most current version of the Nevada wood-destroying pests inspection report, provided that all elements of the report are included and identical to the Departments supplied reports.

(I) If an electronic version of the report is used a report number must be obtained from the department and be prominently displayed in the upper right hand corner of each report. This number must be unique to the each report written.

(II) The fee for a report number is \$1.00 per number.

2. A *legible* copy of each report must be filed with the district or subdistrict office of the Department not later than 15 days after the inspection or the application of a pesticide is made.

3. The report must contain:

(a) The name, license number and mailing address of the pest control business performing the inspection or the application of a pesticide and the date of the inspection or application.

(b) The number assigned to the escrow or mortgage by the Federal Housing Administration or the Department of Veterans Affairs, if applicable and obtainable.

(c) The street address, city and zip code where the property is located.

(d) The name of the person who requested the inspection or the application of a pesticide.

(e) The name of the person to whom the original of the report is being sent.

(f) The name and address of the owner of the property.

(g) The name and address of the buyer or other interested person, if applicable and obtainable.

(h) If an application of a pesticide was made:

(1) The date of the treatment.

(2) An identification of any area to which a pesticide was applied.

(3) The pesticide name and the registration number assigned by the Environmental Protection Agency.

(i) A statement of whether there is or is not evidence of active or inactive infestations of termites, other wood-destroying insects or wood-destroying fungi. Mold must not be reported as wood-destroying fungi. As used in this paragraph:

(1) "Active infestation" means the presence of living wood-destroying pests.

(2) "Inactive infestation" means evidence of infestation by wood-destroying pests, without the presence of such pests.

(j) A statement of whether there is or is not any condition conducive to infestation, including contact of wood with the earth, a faulty grade, insufficient ventilation, excessive moisture or cellulose debris. As used in this paragraph:

(1) "Contact of wood with the earth" means any support or other structure of cellulose that is less than 3 inches above the soil level and in contact with the inspected structure, whether it is internal or external in relation to that structure. The term does not include:

(I) A paling of a fence which is made of wood and which is less than 3 inches above the soil level and in contact with the inspected structure through otherwise acceptable structural elements.

(II) Lattice which is made of wood and which is less than 3 inches above the soil level if the lattice is physically attached to the inspected structure.

(III) An attachment to the inspected structure which is made of wood or cellulose and which is less than 3 inches above the soil level if the attachment is separated from the inspected structure by a flashing which is made of metal.

(IV) A deck which is made of wood and which is less than 3 inches above the soil and in contact with the inspected structure if the deck is separated from the inspected structure by a flashing which is made of metal and the report includes a statement indicating that the deck was excluded from the inspection or application.

(V) Skirting which is installed on a manufactured home and which is less than 3 inches above the soil and in contact with the inspected structure if the skirting is designed by the manufacturer for contact with the ground, is separated from the inspected structure by a flashing which is made of metal or is supported 3 inches or more above the soil level by pressure-treated wood.

(2) "Faulty grade" means a condition in which:

(I) A floor joist or stringer is less than 12 inches above the soil level;

(II) The top of the foundation is less than 3 inches above the adjacent soil level; or

(III) The drainage is such that there is visible evidence of exposure of surface water on the structure.

(3) "Insufficient ventilation" means less than 1 square foot of ventilation per 300 square feet of crawlspace, less than 1 square foot for every 1500 square feet of ground area covered by a vapor barrier and less than four areas permitting ventilation. The term "insufficient ventilation" does not include a crawlspace which is:

(I) Mechanically ventilated; and

(II) Free of wood-destroying fungi and excessive moisture.

(4) "Excessive moisture" means actual moisture on the wood or wood products used in the structure.

(5) "Cellulose debris" means any such debris that is of a size that can be raked and in the aggregate comprises one-half cubic foot or more, or a stump or any other wood that is imbedded in a footing and constitutes a contact of wood with the earth. The term does not include pressure-treated wood that is used to support a manufactured home or the skirting of a manufactured home.

(k) A diagram or sketch of the foundation or part of the inspected structure indicating the location of any condition likely to lead to infestation or infection or any area showing infestation or infection.

(l) A diagram or explanation, or both, of the inspected structure or part of it showing:

(1) The location of any inaccessible area or subarea and any area or subarea not inspected;

(2) Any portion of the structure normally visible which cannot be inspected without mechanically altering the structure, including, without limitation, subflooring or a rim joist that is concealed by insulation; or

(3) Any area where normal conditions have been altered so an inspection is not possible, such as storage in a closet.

(m) The full name, license number and signature of the licensee performing the inspection and application of a pesticide if an application is performed.

(1) Digital signatures must comply with the provisions set forth in NRS 720.160.

(n) If applicable, the report number obtained from the department.

4. Upon completion of an inspection or the application of a pesticide, the person making the inspection or application shall:

(a) If the structure has a crawlspace beneath it, affix a tag supplied by the Department to the structure in an area in which the tag is visible from the entrance to the crawlspace;

(b) If the structure does not have a crawlspace beneath it, affix a tag supplied by the Department to the structure in an area in which the tag is visible from the access area under the kitchen sink; or

(c) If the inspection or application is performed at a structure with multiple units for occupancy, deliver the tag to the office of the manager of the structure or to the owner of the structure if there is no office of the manager of the structure.

5. The tag affixed pursuant to subsection 4 must contain:

(a) The license number and name of the pest control business that performed the inspection or application.

(b) A statement indicating whether an inspection or application was performed. If an application was performed, the tag must contain a statement of the name, amount and concentration of the pesticide applied.

(c) The date on which the inspection or application was performed.

6. Unless otherwise authorized by the Director, each person who, after the construction of a structure, applies a termiticide or other pesticide to eradicate wood-destroying pests shall apply the termiticide or other pesticide only to the sites and in the specific quantities and dosages listed on the label of the termiticide or other pesticide.

7. As used in this section, "pressure-treated wood" means wood or wood products that:

(a) Are pressure-treated or certified by the Board of Review of the American Lumber Standard Committee, Inc.;

(b) Are designed by the manufacturer for contact with the ground;

(c) Are guaranteed against structural damage by termites or fungal decay; or

(d) Are described in paragraph (a), (b) or (c) and have surfaces which have been cut, if those surfaces have been treated with a preservative for wood and the wood or wood products have been inspected and determined to be free of infestation.

[Dep't of Agriculture, part No. 55.34, eff. 6-1-59; A 7-1-69; 5-22-72; + part No. 55.37, eff. 8-1-74; A 1-17-77; 6-11-80]—(NAC A 2-5-82; 1-19-84; 11-7-84; 12-10-

92; A by Div. of Agriculture, 11-12-93; A by Bd. of Agriculture, 8-9-94; A by Dep't of Agriculture by R033-01, 5-1-2002; R147-03, 1-22-2004; R062-10, 1-13-2011)

Sec. 22. NAC 555.600 Definitions. (NRS 555.400, 561.105) As used in NAC 555.600 to 555.700, inclusive, unless the context otherwise requires:

1. "Browsing" means the consumption of leaf and twig growth of shrubs, woody vines and trees by an animal.
2. "Competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.
3. "Container" means any package, can, bottle, bag, barrel, drum, tank or other containing device, excluding spray applicator tanks, used to enclose a pesticide or waste related to pesticide.
4. "Control" means to prevent, destroy, repel or mitigate any undesirable organism.
5. "Direct supervision" means that a person who is certified in the use of a restricted-use pesticide is responsible for and provides guidance to a person applying the restricted-use pesticide who is not certified in the use of the restricted-use pesticide. The physical presence of the person who is certified in the use of the restricted-use pesticide at the site of application is not required unless the label on the pesticide requires the presence of such a person.
6. "Ectoparasite" means any organism that occurs externally on, or whose life cycle involves development within, an organism of another species (host) and derives its nutriment from it.
7. "Food handling establishment" means a place other than a private residence in which exposed food is held, processed, prepared or served.
8. "Forage" means any herbaceous plant or plant part normally grazed on by, or fed to, animals.
9. "Forest" means any concentration of trees and related vegetation in a nonurban area sparsely inhabited by and infrequently used by humans, characterized by natural terrain and drainage patterns.
10. "Fumigation":
 - (a) Means the destruction of plant or animal life within an enclosed area by using:
 - (1) A substance which has a vapor pressure of more than 5 millimeters of mercury at 25° Centigrade; or
 - (2) Any other substance that the Director determines is a fumigant, including, without limitation:
 - (I) Chloropicrin;
 - (II) Methyl bromide;
 - (III) Sulfur dioxide;
 - (IV) Propylene oxide;
 - (V) Sulfuryl fluoride;
 - (VI) Aluminum phosphide;
 - (VII) Magnesium phosphide; and
 - (VIII) Dichloropropene.

(b) May include any of the following substances if the intended use of the substance is to destroy plant or animal life within an enclosed area:

- (1) Liquid nitrogen;
- (2) Carbon dioxide; or
- (3) Metam sodium.

11. "Grain" means any of the grasses that produce cereals which are used for food.

12. "Grazing" means the partial defoliation of forage growth by animal consumption.

13. "Habitat" means that specific locality where an organism exists.

14. "Licensed primary principal commercial applicator" means a person who:

(a) Is designated the primary principal of a business of pest control pursuant to NAC 555.395; and

(b) Is authorized to use or supervise the use of a restricted-use pesticide as a part of a business of pest control.

15. "Microorganism" means any animal or plant that is so small as to be invisible or obscure except through a microscope.

16. "Mollusk" means any of the phylum of soft-bodied animals usually partially or wholly enclosed within a calcium carbonate shell and having a muscular "foot" for locomotion.

17. "Nonprimary principal commercial applicator" means a person who:

(a) Except as a part of a business of pest control, applies or supervises the application of a restricted-use pesticide; and

(b) Does not qualify as a private applicator.

18. "Nonvascular plant" means a plant without flowers, roots, stems or leaves.

19. "Operational site" means that location belonging to a person where an integral function of the business is performed, and includes the person's land, structures and any other environs and equipment.

20. "Pasture" means any fenced area of domesticated forage on which animals are grazed.

21. *"Spot Treatment" means:*

(a) For outdoor applications a "spot treatment" is defined as an area that is of a size that is no more than 2 feet by 2 feet, non-contiguous and is less than 1/10 of the total treatment area.

(b) For indoor applications a "spot treatment" is defined as an application to limited areas on which insects are likely to occur, but which will not be in contact with food or utensils and will not ordinarily be contacted by people. These areas may occur on floors, walls, and bases or undersides of equipment. A spot treatment will not exceed 2 square feet, be non-contiguous and is less than 1/10 of the total treatment area.

[24] 22. "Plant disease" means any exhibition of some malfunction or abnormality in a plant's development or growth caused by a microorganism as, for example, fungi, bacteria, viruses, mycoplasmas and nematodes.

[22] 23. "Predator" means any animal of the class Mammalia of the subphylum Vertebrata that kills and consumes other animals.

[23] 24. "Private applicator" has the meaning ascribed to it in NRS 555.2681.

[24] 25. "Range" means any land with native vegetation (climax or natural potential) that is predominantly grasses, grasslike plants, forbs or shrubs suitable for grazing or browsing.

[25] 26. "Row crop" means any fiber crop, melon crop, vegetable crop or similar crop that is grown in continual lines.

[26] 27. "Seed crop" means any plant that is grown for the purpose of utilizing the propagative portion of the plant.

[27] 28. "Vertebrate" means any animal of the subphylum Vertebrata of the phylum Chordata, which has an enlarged brain enclosed in a cranium, or brain case, a segmented vertebral column which supports the body, a head, neck, trunk and usually a tail present.

[28] 29. "Wildlife" means all living things that are neither human, domesticated nor pests, including, but not limited to, mammals, birds and aquatic life.

[29] 30. "Wood-destroying pest" means any organism which infests or infects and destroys cellulose.

[Dep't of Agriculture Reg., 55.50, eff. 1-17-77]—(NAC A by R147-03, 1-22-2004; A by Bd. of Agriculture by R156-07, 1-30-2008)

Sec. 23. NAC 555.613 Licensed primary principal commercial applicators: Fields; categories. (NRS 555.400)

1. The fields of licensed primary principal commercial applicators are:

(a) Aerial—The use of aircraft on standing or running water, rangeland *non-cropland, forests* or cropland.

(b) Agricultural ground—The use of ground equipment on rangeland, *non-cropland, forests*, cropland or ~~[animals]~~ *livestock*.

(c) Urban structural—The use of ground equipment in urban areas and in, on or around structures.

2. The categories of licensed primary principal commercial applicators are:

(a) Aerial:

(1) Insecticides—The application of insecticides, miticides and acaricides.

(2) Herbicides—The application of herbicides and plant regulators.

(3) Desiccants and defoliants—The application of desiccants and defoliants.

(4) Fungicides and bactericides—The application of fungicides, bactericides and nematocides.

(b) Agricultural ground:

(1) Insecticides—The application of insecticides, miticides and acaricides.

(2) Herbicides—The application of herbicides and plant regulators.

(3) Desiccants and defoliants—The application of desiccants and defoliants.

(4) Fungicides and bactericides—The application of fungicides, bactericides and nematocides.

(5) ~~[Rodenticides]~~ *Vertebrates* —~~[The application of rodenticides]~~ *For the control of vertebrate pests (excluding “predator” pests as defined in NAC 555.600.22) , in, on, or around agricultural establishments (excluding, but not limited to, agricultural dwelling units, agricultural business office buildings, agricultural Industrial and Institutional complexes, warehouses, and ornamental and turf plantings), rangeland, forests, non-cropland and croplands. This category includes the use of fumigants for burrowing rodents.*

(c) Urban and structural:

(1) ~~[Ornamental and turf]~~ *Limited Landscape* —The control of insects, ~~[weeds,]~~ vertebrates and plant diseases and the use of plant regulators on ornamentals and turf in urban areas, including, without limitation, fruit trees in urban areas if the fruit trees are not used for commercial purposes.

(2) Industrial and institutional—The control of insects and vertebrates in, on or around industrial complexes, institutional complexes and dwelling units.

(3) Structural—The control of wood-destroying pests, inspection for wood-destroying pests and inspection for conditions conducive to infestations of wood-destroying pests.

(4) Fumigation—The use of poisonous and lethal fumigants.

(5) Aquatic—The control of insects, weeds and vertebrates in aquatic areas that are used or are intended for use in and around industrial complexes, institutional complexes and dwelling units.

(6)) ~~[Right-of-way]~~ *Weeds* —The control of weeds in the maintenance of *landscapes, turf*, rights-of-way, including, without limitation, public roads, power lines, pipelines and railway rights-of-way, *the term does not include aquatic weeds.*

(7) Preservation of wood—The application of pesticides directly to wood or wood products that are not a part of a habitable structure to prevent or control the degradation of the wood or wood product by a wood-destroying organism, including, without limitation, a fungus or bacterium.

(Added to NAC by Dep’t of Agriculture by R147-03, eff. 1-22-2004)

Sec. 24. NAC 555.690 Fees for issuance of certificates to nonprimary principal commercial applicators and private applicators. (NRS 555.355, 555.400, 561.105)

1. The Director will collect a fee of ~~[\$25]~~ *\$50* for each examination period or renewal period for the issuance of a certificate pursuant to NAC 555.655, before the applicant is examined.

2. If a certificate specified in subsection 1:

(a) Is lost, stolen, mutilated or destroyed; or

(b) Is determined by the Director to be undeliverable because the applicant provided an incomplete address or other incorrect information when applying for the certificate, the Director will collect a fee of \$25 for issuing a duplicate certificate.

[Dep't of Agriculture, No. 55.56, eff. 1-17-77]—(NAC A 4-27-84; A by Div. of Agriculture, 11-18-93; A by Dep't of Agriculture by R147-03, 1-22-2004; A by Bd. of Agriculture by R156-07, 1-30-2008; A by Dep't of Agriculture by R148-08, 2-11-2009)

Sec. 25. NAC 555.700 Application of restricted-use pesticides by licensed primary principal commercial applicators, nonprimary principal commercial applicators and private applicators. (NRS 555.390, 555.400)

Except as otherwise provided in this chapter or as specifically authorized in writing by the Director, any licensed primary principal commercial applicator, nonprimary principal commercial applicator or private applicator applying or supervising the application of restricted-use pesticides shall, in addition to the provisions of subsections 2 to 9, inclusive, of NAC 555.400:

1. Keep and maintain an accurate and legible record of each property treated for 2 years, showing the following:

(a) Date of treatment;

(b) First and last name of the nonprimary principal commercial applicator or private applicator applying or supervising the application of the restricted-use pesticide;

(c) Address of property treated;

(d) Brand name or generic name and Environmental Protection Agency registration number of the pesticide applied;

(e) Use information:

(1) Item or site treated; and

(2) Amount of diluted material used and the concentration of the pesticide that was applied or the amount of undiluted material used; and

(f) In addition to the requirements of paragraphs (a) to (e), inclusive, if the treatment is conducted in the nonprimary principal commercial categories agricultural pest control plant, chemigation, greenhouse and nursery pest control, aquatic pest control, forest pest control, fumigation pest control, ornamental and turf pest control, right-of-way pest control or mosquito control, or in the private categories agricultural pest control plant, chemigation, greenhouse and nursery pest control, aquatic pest control, forest pest control, fumigation pest control or ornamental and turf pest control:

(1) Temperature at the start and finish of treatment.

(2) Wind velocity and direction at the start and finish of treatment.

(3) Number of units treated, area of surface treated or volume fumigated.

(4) The purpose for which the pesticide was applied.

(5) The time the treatment was started and the time the treatment was finished.

2. Report **[immediately]** to the Director *within 24 hours by telephone*, any emergency dump of a pesticide by an aircraft, any accident of a pesticide-loaded aircraft or ground equipment involving the spillage of a pesticide, or the accidental spillage *of more than 1 gallon liquid or 4 pounds dry weight* of a pesticide at any site of operations of pesticides.

3. *Nonprimary principal commercial applicator or private applicators are responsible for the cost of cleanups resulting from pesticide spills in their operations.*

4. Report to the Director within 48 hours any case of apparent pesticide poisoning requiring medical treatment.

~~[4.]~~ 5. Have contact with any applicator under his or her direct supervision at least once every hour at night and at least once every 2 hours during daylight hours.

[Dep't of Agriculture, No. 55.57, eff. 1-17-77]—(NAC A by R033-01, 5-1-2002; R147-03, 1-22-2004; R062-10, 1-13-2011)

6F

*Request Permission
to go to workshop
and hearing for NAC
555.010 to
amend noxious weed
list

(Attachment)

*Possible Action

NAC 555.010 Designation and categorization of noxious weeds. ([NRS 555.130](#))

1. The following weeds, *their cultivars and reproductive hybrids* are designated noxious weeds:

(a) Category A Weeds:

- | | |
|-----------------------------|--|
| (1) African rue. | (<i>Peganum harmala</i>) |
| (2) Austrian fieldcress. | (<i>Rorippa austriaca</i>) |
| (3) Austrian peaweed. | (<i>Sphaerophysa salsula</i>) |
| (4) Black henbane. | (<i>Hysocyamus niger</i>) |
| (5) Camelthorn. | (<i>Alhagi pseudalhagi</i>) |
| (6) Common crupina. | (<i>Crupina vulgaris</i>) |
| (7) Dalmatian toadflax. | (<i>Linaria dalmatica</i>) |
| (8) Dyer's woad. | (<i>Isatis tinctoria</i>) |
| (9) Eurasian water-milfoil. | (<i>Myriophyllum spicatum</i>) |
| (10) Giant reed. | (<i>Arundo donax</i>) |
| (11) Giant salvinia. | (<i>Salvinia molesta</i>) |
| (12) Goats rue. | (<i>Galega officinalis</i>) |
| (13) Green fountain grass. | (<i>Pennisetum setaceum</i>) |
| (14) Houndstongue. | (<i>Cynoglossum officinale</i>) |
| (15) Hydrilla. | (<i>Hydrilla verticillata</i>) |
| (16) Iberian starthistle. | (<i>Centaurea iberica</i>) |
| (17) Klamath weed. | (<i>Hypericum perforatum</i>) |
| (18) Malta starthistle. | (<i>Centaurea melitensis</i>) |
| (19) Mayweed chamomile. | (<i>Anthemis cotula</i>) |
| (20) Mediterranean sage. | (<i>Salvia aethiopis</i>) |
| (21) Purple loosestrife. | (<i>Lythrum salicaria</i> , <i>Lythrum virgatum</i>
and their cultivars) |
| (22) Purple starthistle. | (<i>Centaurea calcitrapa</i>) |
| (23) Rush skeletonweed. | (<i>Chondrilla juncea</i>) |
| (24) Sow thistle. | (<i>Sonchus arvensis</i>) |
| (25) Spotted knapweed. | (<i>Centaurea maculosa</i>) |
| (26) Squarrose knapweed. | (<i>Centaurea virgata</i>) |
| (27) Sulfur cinquefoil. | (<i>Potentilla recta</i>) |
| (28) Syrian bean caper. | (<i>Zygophyllum fabago</i>) |
| (29) Yellow starthistle. | (<i>Centaurea solstitialis</i>) |
| (30) Yellow toadflax. | (<i>Linaria vulgaris</i>) |

(b) Category B Weeds:

- | | |
|----------------------------|---------------------------------------|
| (1) Carolina horse nettle. | (<i>Solanum carolinense</i>) |
| (2) Diffuse knapweed. | (<i>Centaurea diffusa</i>) |
| (3) Leafy spurge. | (<i>Euphorbia esula</i>) |
| (4) Medusahead. | (<i>Taeniatherum caput-medusae</i>) |
| (5) Musk thistle. | (<i>Carduus nutans</i>) |
| (6) Russian knapweed. | (<i>Acroptilon repens</i>) |
| (7) Sahara mustard. | (<i>Brassica tournefortii</i>) |
| (8) Scotch thistle. | (<i>Onopordum acanthium</i>) |
| (9) White horse nettle. | (<i>Solanum elaeagnifolium</i>) |

(c) Category C Weeds:

- | | |
|---------------------|------------------------------|
| (1) Canada thistle. | (<i>Cirsium arvense</i>) |
| (2) Hoary cress. | (<i>Cardaria draba</i>) |
| (3) Johnson grass. | (<i>Sorghum halepense</i>) |

- | | |
|----------------------------|--------------------------------|
| (4) Perennial pepperweed. | (<i>Lepidium latifolium</i>) |
| (5) Poison Hemlock. | (<i>Conium maculatum</i>) |
| (6) Puncture vine. | (<i>Tribulus terrestris</i>) |
| (7) Salt cedar (tamarisk). | (<i>Tamarix</i> spp.) |
| (8) Water Hemlock. | (<i>Cicuta maculata</i>) |

2. Category A weeds are weeds that are generally not found or that are limited in distribution throughout the State. Such weeds are subject to:

- (a) Active exclusion from the State and active eradication wherever found.
- (b) Active eradication from the premises of a dealer of nursery stock.

3. Category B weeds are weeds that are generally established in scattered populations in some counties of the State. Such weeds are subject to:

- (a) Active exclusion where possible.
- (b) Active eradication from the premises of a dealer of nursery stock.

4. Category C weeds are weeds that are generally established and generally widespread in many counties of the State. Such weeds are subject to active eradication from the premises of a dealer of nursery stock.

5. As used in this section, "dealer of nursery stock" has the meaning ascribed to it in [NRS 555.23525](#). [Dep't of Agriculture, No. 55.11, eff. 5-25-62; A 5-1-68]—(NAC A by St. Quarantine Officer, 8-9-94; R191-99, 8-7-2000; R097-01, 5-1-2002; R003-03, 9-24-2003; R109-04, 10-5-2004; R028-05, 10-31-2005; R020-06, 6-28-2006; R156-08, 2-11-2009)

7

Consumer Equitability

7A

Update to Board

7B

NAC 581 Public
Hearing March
20 – Notice of
Intent to Act

(Attachment)

BRIAN SANDOVAL
Governor

STATE OF NEVADA

JAMES R. BARBEE
Director



Las Vegas Office:
2300 McLeod Street
Las Vegas NV 89104-4314
(702) 668-4590
Fax (702) 668-4567

Elko Office:
4780 E. Idaho Street
Elko NV 89801-4672
(775) 738-8076
Fax (775) 738-2639

DEPARTMENT OF AGRICULTURE

405 South 21st Street
Sparks, Nevada 89431-5557
Telephone (775) 353-3601 Fax (775) 353-3661
Website: <http://www.agri.nv.gov>

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Meeting for the Amendment of Regulations of the Nevada Department of Agriculture

The Nevada Department of Agriculture (NDA) will hold a public meeting on Thursday, March 20, 2014 at 9:00 AM at the Department of Agriculture, main conference room, 405 South 21st Street, Sparks, Nevada 89431. Video conferencing will be available at the following locations:

Department of Agriculture
2300 McLeod Street
Las Vegas, Nevada 89107

Department of Agriculture
4780 E. Idaho Street
Elko, Nevada 89801

The following information is provided pursuant to the requirements of NRS 233B.0603:

The purpose of this meeting is to notify the public – to include businesses – that the Department of Agriculture intends to adopt the changes to NAC 581 as specified in the revised LCB File # R179-12. Comments from the public are welcomed.

Statement of Need: The purpose of this change was prompted by the following three issues: 1. the 76th legislature's concern that the Nevada Department of Agriculture (Weights and Measures Bureau) was not conducting enough price verifications; 2. the Department's concern that the State needs to have more defined fuel standards; and, 3. the Department's intention to account for fuel cost increases and metrology calibration support for maintenance businesses servicing Nevada. Price verification changes involve initiating a new fee; fuel standard changes involve adopting Handbook 130 standards by reference; and mileage rate increases and metrology changes regard an hourly fee increase.

The methods used by the agency in determining the impact on a small business was prepared pursuant to subsection 3 of NRS 233B.0608 . Additionally:

The NDA conducted three workshops inviting both the public and the business community to contribute. Invitations went to the Reno/Sparks Chamber of Commerce, Nevada Retailers Association, Local Marketers Association, and the Las Vegas Chamber of Commerce. Regarding the hourly inspection fee increase from \$40.00 to \$50.00 and the adoption of Handbook 130 fuel standards no significant opposition was cited. Attendees did express concerns regarding the initiation of fees associated price verifications. The purpose was to generate fees to sustain an increase of two staff members and a new database.

The NDA accepted a recommendation to conduct a six month test. During the test the NDA identified positive results from the business community. Additionally, the NDA identified that during that half of the fiscal year – while developing more productive procedures – we were able to accomplish 118 inspections. This was an improvement over previous years; for this year DCE's productivity rate is on track to accomplish 400

inspections. Although NDA will produce 400 inspections on an annual rate, relative to the 5800 retail establishments located in Nevada, inspection coverage remains lacking.

This proposed regulation change will be permanent; the revised text of this proposed change is attached and may be accessed on the Department of Agriculture's web site.

The estimated economic effect on business is:

Adverse

Cost impact will add an additional fee for Price Verification inspections:

\$25.00 per each retail location with three or less point-of-sales systems.

\$50.00 per each retail location with four or more point-of-sales systems.

Recheck and special inspection, and calibration hourly fees increase from \$40.00 to \$50.00.

Recheck and special inspection mileage rate increases (refer to revised LCB File number R179-12.

Beneficial

Better defined fuel standards for Nevada.

The estimated economic effect on the public is:

Adverse

Unknown.

Beneficial

Unknown

The Department of Agriculture, Division of Consumer Equitability, reached out to both the public and industries. The Workshop and Hearing was communicated to the public in accordance with NRS 241. Additionally, the Division reached out to the Local Marketers Association, Nevada Retail Association, Reno/Sparks chamber of commerce and the Las Vegas Chamber of Commerce.

The Department of Agriculture, Division of Consumer Equitability, conducted three Workshops regarding NAC 581 revisions. The Workshops were conducted April 12, 2012, July 10, 2012, and October 22, 2013. Impacts to businesses, both large and small, were requested at two of three of those public meetings; the third workshop provided tests results and input was taken.

The estimated cost to the agency for implementing and supporting this regulation modification is approximately \$150,000.00.

The proposed regulation does not overlap or duplicate other state or local governmental agencies, and, it does not overlap or duplicate federal regulations. This regulation will further help increase Price Verifications, provide for weights and measures logistics and attach by reference Handbook 130 standards regarding fuel.

This regulation is not required pursuant to federal law.

The regulation implements: a price verification fee pertaining to retail locations - a fee to increase staff and infrastructure; a mileage and hourly fee rates; and adopts, by reference, fuel standards.

Interested persons may present their views on the proposed regulation, March 20, 2014, 9:00 AM at:

Department of Agriculture
405 South 21st Street
Sparks, Nevada 89431

Department of Agriculture
4780 E. Idaho Street
Elko, Nevada 89801

Department of Agriculture
Main Conference Room
2300 McLeod Street
Las Vegas, Nevada 89104

NRS 233B.064(2) provides: Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This proposed regulation does establish a new fee: 1. \$50.00 per retail location containing four or more point-of-sale systems and \$25.00 per retail location containing three or less point-of-sale systems; 2. increases mileage rates; and, 3. increases inspector and metrologist hourly rates from \$40.00 to \$50.00.

Persons wishing to comment upon the proposed action of the Department of Agriculture may appear at the scheduled public meeting or may address their comments, data, views, or arguments, in written form to Dave Jones, Department of Agriculture, 2150 Frazer Avenue, Sparks, Nevada 89431. If mailed, written submissions must be received by March 7, 2014; written documents may be hand delivered to the meeting at the Department of Agriculture, Main Conference Room, Attention: Dave Jones, 405 South 21st Street, Sparks, Nevada 89431. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department of Agriculture and Board of Agriculture may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Steward Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and regulation to be adopted will be available at:

Nevada Department of Agriculture
405 South 21st Street
Sparks, NV 89431

Nevada Department of Agriculture
2300 McLeod
Las Vegas, NV 89104

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89445

Nevada Department of Agriculture
2150 Frazer Street
Sparks, NV 89431

Additionally, copies will be available in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation can also be found on the Nevada Department of Agriculture website at www.agri.nv.gov. Should a person require copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This notice of hearing has been posted at the following locations:

Churchill County Library 553 South Maine Street Fallon, NV 89406	Clark County District Library 833 Las Vegas Boulevard North Las Vegas, NV 89101	Elko County Library 720 Court Street Elko, NV 89801
Esmeralda County Library Corner of Crook & 4 th Streets Goldfield, NV 89013	Eureka Branch Library P.O. Box 293 10190 Monroe Street Eureka, NV 89316-0293	Humboldt County Library 85 East 5 th Street Winnemucca, NV 89445
Lincoln County Library 63 Main Street Pioche, NV 89043	Lyon County Library 20 Nevin Way Yerington, NV 89447	Mineral County Library 110 1 st Street Hawthorne, NV 89415
Nevada Farm Bureau Federation 2165 Green Vista Drive, Suite 205 Sparks, NV 89431	Tonopah Public Library 167 Central Street Tonopah, NV 89049	Pershing County Library 1125 Central Avenue Lovelock, NV 89419
Storey County Public Library 95 South R Street Virginia City, NV 89440	Washoe County Library 301 South Center Street Reno, NV 89501	White Pine County Library 950 Campton Street Ely, NV 89301
Lander County Library 625 South Broad Street Battle Mountain, NV 89820	Carson City Library 900 N. Roop Street Carson City, NV 89702	Douglas County Library 1625 Library Lane Minden, NV 89423
State Library 100 North Stewart Street Carson City, NV 89701-4285	Smith Valley Library 22 Day Lane Smith, NV 89430	Las Vegas Review Journal Ed Vogel/Capital Bureau 102 N. Curry Street Carson City, NV 89703

David M. Jones
Administrator
Division of Consumer Equitability

8

Food and Nutrition

8A

Update to Board

(Attachment)

FOOD AND NUTRITION DIVISION UPDATE

2014 March NDA Board Meeting

Development

- Evaluating warehouse options in Las Vegas
- Developing a USDA Foods action plan regarding ordering, distributing, evaluating for the most efficient and cost effective method
- In process of assembly of Dairy lab equipment with completion date to be July 1, 2014
- 5 new dairy farms in process of opening in Northern Nevada – goat, sheep and two cow farms in Fallon, 1 additional cow farm in Smith Valley

Services

- Provided on-going technical assistance for all child nutrition programs
- Completed 84 raw milk, 110 finished milk, 24 single service containers, 6 cheese samples
- Hired Program Officer I position to assist with the FDPIR program, wellness policy and nutrition programs
- Conduct Administrative Reviews for the following school districts:
Carson/Douglas/Clark
- Released Free and Reduced report

Training and Presentations

- Attended Portland Lab Training December 1 – 6, 2013 and New Orleans Laboratory Evaluation Officers Workshop February 10 – 14, 2014
- Participated in the 2014 NASDA Conference, February 2 – 6, 2014, Reston, VA/Washington D.C.
- Participated in the USDA Food Distribution Program Training, February 18 – 21, 2014, Denver, CO
- Attended the USDA CACFP Refresher Handbook Conference/Training, January 6 – 10, 2014, Denver, CO
- Conducted SFMNP meeting with farmers, market managers and senior agencies. Shared results of 2013 program year and developed plan for 2014 program year
- Participated in the USDA State Agency Workshop, December 8 – 13, 2014, Arlington, VA

Participation

- SFSP Programs Participation meeting to increase in Clark and Rural areas of Nevada

9

Animal Industries

9A

Update to Board

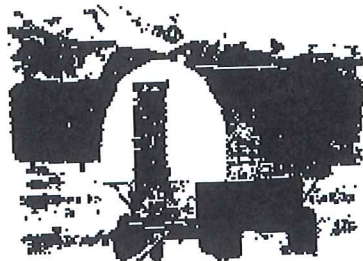
9B

*Nevada

Woolgrowers Assn.
Request to Board for
Balance of monies
BY13-14

(Attachment)

*Possible Action



Nevada Wool Growers Association
HC 30 Box 360
Spring Creek, NV 89815
775-934-8860

December 1, 2013

Dear Sirs,

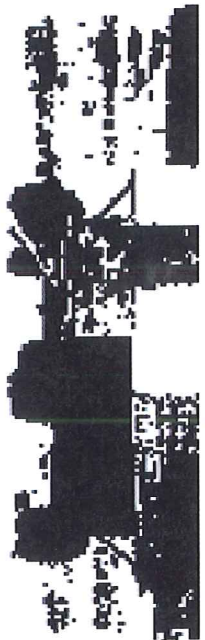
The Nevada Wool Growers would like to request the balance of our monies for the 2013-2014 budget. The monies will be used for the following expenditures:

ASI Dues, Accounting, Consulting, Legal Fees, MWVW, Educational
Endeavors, Self-Imposed Tax for Helicopter rental, and Office
Expenditures

The total monies being requested equals \$36,058.46.

Sincerely,

David Little
President, Nevada Wool Growers Association



Spring Creek, NV 89815
775-934-8860

(2)

December 1, 2013

Dear Sirs,

The Nevada Wood Growers would like to request the balance of our monies for the 2013-2014 budget. The monies will be used for the following expenditures:

ASI Dues, Accounting, Consulting, Legal Fees, MWMV, Educational
Endeavors, Self-Imposed Tax for Helicopter rental, and Office
Expenditures.

The total monies being requested equals \$36,058.46.

Sincerely,


David Little

INTEGRATED
COPY


9C

*Review of NAC
Trichomoniasis
Regulations Re:
notification of
neighboring herds

(Attachment)

*Possible Action

TRICHOMONOSIS

NAC 571.600 Definitions. ([NRS 571.120](#), [571.150](#)) As used in [NAC 571.600](#) to [571.668](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 571.602](#) to [571.638](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.602 “Accredited veterinarian” defined. ([NRS 571.120](#), [571.130](#), [571.150](#)) “Accredited veterinarian” means a licensed veterinarian approved by the Administrator and the Veterinary Services of the Animal and Plant Health Inspection Service of the United States Department of Agriculture in accordance with the provisions of 9 C.F.R. Part 161.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.604 “Exposed to female cattle” defined. ([NRS 571.120](#), [571.150](#)) “Exposed to female cattle” means left sufficiently free from restraint such that breeding is a possibility.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.606 “Herd” defined. ([NRS 571.120](#), [571.150](#)) “Herd” means a group of cattle that is:

1. Under common ownership or supervision; and
2. Grouped on one or more parts of any single parcel of land or on two or more parcels of land which are geographically separated but under common ownership or supervision.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.607 “Hold order” defined. ([NRS 561.295](#), [571.120](#), [571.150](#), [571.170](#)) “Hold order” means an order issued pursuant to [NRS 561.295](#) for infection with trichomonosis.

(Added to NAC by St. Quarantine Officer by R208-08, eff. 2-11-2009)

NAC 571.608 “Negative test result” defined. ([NRS 571.120](#), [571.150](#)) “Negative test result” means that a specimen taken from a bull by an accredited veterinarian or veterinary technician is determined not to contain trichomonas organisms.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.610 “Neighboring herd” defined. ([NRS 571.120](#), [571.150](#)) “Neighboring herd” means a herd that:

1. Is separated by a single fence from another herd;
2. Shares a common pasture or range with another herd;
3. Contains cattle exchanged from another herd; or
4. Contains cattle that were found estray or stray, as defined in [NAC 571.650](#).

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.612 “Official laboratory” defined. ([NRS 571.120](#), [571.150](#)) “Official laboratory” means a laboratory that is approved by the Department and follows official protocol:

1. To conduct a culture test on a specimen for the presence of trichomonas organisms; or 2. To confirm by polymerase chain reaction testing whether a specimen is positive for Tritrichomonas foetus.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.614 “Official protocol” defined. ([NRS 571.120](#), [571.150](#)) “Official protocol” means operating procedures set forth by the Administrator that a laboratory must follow to maintain its status as an official laboratory.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.616 “Official tag” defined. ([NRS 571.120](#), [571.150](#)) “Official tag” means a tag authorized by the Department and approved by the Administrator that is usually placed in the right ear of a bull by an accredited veterinarian or veterinary technician to indicate the status of the bull with respect to trichomonosis.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.618 “Official test for trichomonosis” defined. ([NRS 571.120](#), [571.150](#)) “Official test for trichomonosis” means a test for trichomonosis that is performed on a bull in this State where:

1. The test is performed by an accredited veterinarian or veterinary technician who is registered with the Department pursuant to [NAC 571.640](#);
2. The specimen collected from the bull is tested in an official laboratory;
3. The testing complies with the provisions of [NAC 571.664](#) and [571.666](#); and
4. The testing is performed in accordance with any testing procedures approved by the Administrator.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.620 “Positive test result” defined. ([NRS 571.120](#), [571.150](#)) “Positive test result” means that a specimen collected from a bull by an accredited veterinarian or veterinary technician is determined to contain trichomonas organisms.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.622 “Qualified feedlot” defined. ([NRS 571.120](#), [571.150](#)) “Qualified feedlot” means a feedlot that:

1. Is approved by the Administrator to house cattle temporarily for upgrade or finish feeding; and
2. Confines the cattle to the premises of a dry lot area.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.624 “Slaughter channel” defined. ([NRS 571.120](#), [571.150](#)) “Slaughter channel” means the sale, transfer or direct movement of cattle to a:

1. Slaughter facility;
2. Qualified feedlot for direct movement to a slaughter facility; or
3. Stockyard that is approved by the Administrator for sale to a slaughter facility or a qualified feedlot.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.626 "Slaughter facility" defined. ([NRS 571.120](#), [571.150](#)) "Slaughter facility" means a facility that is approved by the Administrator to slaughter cattle.
(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.628 "Specimen" defined. ([NRS 571.120](#), [571.150](#)) "Specimen" means a sample taken from the preputial cavity of a bull by an accredited veterinarian or veterinary technician.
(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.630 "Stockyard" defined. ([NRS 571.120](#), [571.150](#)) "Stockyard" means a facility where an auction or similar trading in livestock is conducted and where:

1. Yarding, feeding and watering places are provided by the stockyard or a transportation company; or
2. Livestock associations or similar companies maintain corrals for feeding, shearing, dipping and separating animals.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.632 "Test chart" defined. ([NRS 571.120](#), [571.150](#)) "Test chart" means an official document signed by an accredited veterinarian or veterinary technician which certifies that a bull has been subjected to an official test for trichomonosis and indicates the results of the test.
(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.633 "Test eligible bull" defined. ([NRS 571.120](#), [571.150](#)) "Test eligible bull" means an intact male bovine that is 12 months of age or older.
(Added to NAC by St. Quarantine Officer by R208-08, eff. 2-11-2009)

NAC 571.634 "Total confinement operation" defined. ([NRS 571.120](#), [571.150](#)) "Total confinement operation" means a dry lot feeding operation where none of the sexually active cattle are allowed access to pasture or to mingle with other cattle outside the confines of the premises of the operation.
(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.636 "Trichomonosis" defined. ([NRS 571.120](#), [571.150](#)) "Trichomonosis" means a sexually transmitted disease of cattle caused by the protozoan parasite *Tritrichomonas foetus*.
(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.638 "Veterinary technician" defined. ([NRS 571.120](#), [571.150](#)) "Veterinary technician" has the meaning ascribed to it in [NRS 638.013](#).
(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.640 Registration of accredited veterinarian or veterinary technician to perform official tests for trichomonosis. ([NRS 571.120](#), [571.150](#)) An accredited veterinarian or veterinary technician may register with the Department to perform official tests for trichomonosis if he or she has completed a training program approved by the Department on trichomonosis and how properly to perform an official test for trichomonosis on a bull, or demonstrates adequate knowledge of such matters to the satisfaction of the Director.
(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.642 Prerequisites to movement of test eligible bull into State; exemption from requirements. (NRS 571.120, 571.150, 571.210)

1. Except as otherwise provided in subsection 2 and [NAC 571.644](#), a person shall not ship, transport or otherwise move into this State any test eligible bull unless the test eligible bull:

(a) Has tested negative for trichomonosis, as evidenced by a test performed on a specimen taken from the test eligible bull by an accredited veterinarian within 60 days before entering this State; and

(b) Is accompanied by a health certificate issued by the accredited veterinarian which specifies the date of the testing and collection of the specimen and which:

(1) Verifies that the test eligible bull has tested negative for trichomonosis and that trichomonosis has not been diagnosed in the herd of origin of the test eligible bull during the previous 12 months; or

(2) If the test eligible bull is from a herd that has tested positive for trichomonosis during the previous 12 months, verifies that the test eligible bull has tested negative for trichomonosis in each of its three most recent tests before entering this State and that each such test was performed at least 1 week apart and complied with the official program to test for trichomonosis in the state of origin of the test eligible bull.

2. The Administrator may exempt from the requirements of subsection 1 a person who wishes to ship, transport or otherwise move into this State:

(a) A test eligible bull bearing a tag issued by an accredited veterinarian of another state that has an official program to test for trichomonosis;

(b) A test eligible bull moving directly to slaughter or to a qualified feedlot;

(c) A feeder bull;

(d) A rodeo bull for the purpose of exhibition so long as the bull will not:

(1) Have access to grazing;

(2) Be exposed to female cattle; or

(3) Be offered for sale or lease; or

(e) A test eligible bull for the purpose of exhibition at a livestock show so long as the test eligible bull will be returned to its state of origin upon the completion of the exhibition and will not:

(1) Have access to grazing;

(2) Be exposed to female cattle; or

(3) Be offered for sale or lease.

3. As used in this section, "feeder bull" means a test eligible bull that is:

(a) Sufficiently restrained from female cattle such that breeding is not a possibility; and

(b) Kept in a total confinement operation for the purpose of feeding and eventual slaughter.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.644 Testing of commuter bull that is test eligible bull; application for commuter permit. (NRS 571.120, 571.150, 571.210)

1. The owner or lessee of a commuter bull that is a test eligible bull shall ensure that the commuter bull has been tested for trichomonosis by an accredited veterinarian or veterinary technician:

(a) Annually, between October 1 and the following May 31; and

(b) Except as otherwise provided in subsection 2, before it is exposed to female cattle.

2. If the commuter bull is from an infected herd, the owner or lessee of the commuter bull shall ensure that the commuter bull is not exposed to female cattle unless:

(a) The commuter bull has received a negative test result in each of its three most recent tests for trichomonosis that were performed at least 7 days apart; and

(b) The sample for each test was collected at least 7 days apart and tested for trichomonosis.

3. An application for a commuter permit must be accompanied by a copy of the results of the required testing with respect to each commuter bull covered by the permit.

4. As used in this section:

(a) "Commuter bull" means a bull that is traveling across state lines for grazing purposes pursuant to a commuter permit.

(b) "Commuter permit" means a permit that is issued pursuant to [NAC 571.045](#).

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.646 Testing of test eligible bull before sale or lease for reproductive purposes. ([NRS 571.120](#), [571.150](#)) No test eligible bull may be offered for sale or lease in this State for reproductive purposes unless the test eligible bull:

1. Tested negative for trichomonosis, as evidenced by an official test for trichomonosis on a specimen taken from the test eligible bull within 60 days before the sale or lease, except that a test eligible bull must be retested before the sale or lease if the test eligible bull is exposed to female cattle after the official test for trichomonosis; and

2. Bears an official tag.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.648 Written declaration required before sale of test eligible bull at stockyard; exceptions. ([NRS 571.120](#))

1. Before a test eligible bull may be sold at a stockyard in this State, the owner or the owner's agent must declare in writing whether or not the test eligible bull is positive for trichomonosis, except that if the test eligible bull is an untested bull it may be sold for slaughter or for direct movement to a qualified feedlot or total confinement operation without such a written declaration.

2. As used in this section, "untested bull" means a test eligible bull that does not bear an official tag.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.650 Testing of estray or stray test eligible bull. ([NRS 561.295](#), [571.120](#), [571.150](#), [571.170](#))

1. The Administrator may require:

(a) A test eligible bull to receive an official test for trichomonosis if the test eligible bull is found estray or stray and is found commingling with a cow belonging to another person.

(b) The owner of a test eligible bull described in subsection 1 to pay all costs associated with the official test for trichomonosis.

2. As used in this section:

(a) "Estray" means any test eligible bull showing signs of domestication, running at large upon public or private lands in the State, whose owner is unknown in the section where the test eligible bull is found.

(b) "Stray" means any test eligible bull showing signs of domestication, running at large upon public or private lands in the State, whose owner is known in the section where the test eligible bull is found.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.652 Official tags: Use; designation of color. (NRS 571.120, 571.150)

1. An accredited veterinarian or veterinary technician who performs an official test for trichomonosis on a bull in this State shall tag the bull in its right ear with an official tag.

2. An accredited veterinarian may tag a bull entering this State with an official tag if he or she receives a trichomonosis test chart for the bull from an accredited veterinarian who tested the bull for trichomonosis outside of this State.

3. The Administrator will designate a different color for official tags each year.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

NAC 571.654 Procedure upon receipt of positive test result to official test for trichomonosis. (NRS 561.295, 571.120, 571.150, 571.160, 571.170)

1. An accredited veterinarian who performs an official test for trichomonosis on a bull in this State shall, within 48 hours after his or her receipt of a positive test result with respect to the bull:

(a) Report the result to the Administrator, the Director and the owner of the bull; and

(b) Classify the bull as an infected bull and its herd as an infected herd.

2. The Director will immediately place an infected bull and its infected herd under a hold order and ensure that the Administrator or a federal animal health official conducts an epidemiological investigation of the infected herd.

3. As used in this section, "federal animal health official" means an employee of the Veterinary Services of the Animal and Plant Health Inspection Service of the United States Department of Agriculture who is authorized to perform animal health activities.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.656 Infected herd: Release from hold order; lease or transfer of ownership; release to slaughter channel. (NRS 561.295, 571.120, 571.150, 571.170)

1. Before the Director releases an infected herd from a hold order, an accredited veterinarian must ensure that:

(a) Each test eligible bull in the infected herd receives the first of three official tests for trichomonosis within 12 months after the herd is placed under the hold order;

(b) Each test eligible bull is certified to be clear of trichomonosis or is released to a slaughter channel;

(c) Each test eligible bull receives and bears an official tag; and

(d) The official tag number and classification of each test eligible bull is recorded on a test chart.

2. Before a test eligible bull may be certified to be clear of trichomonosis pursuant to subsection 1:

(a) The test eligible bull must have received a negative test result in each of its three most recent official tests for trichomonosis, with each such test being performed at least 7 days apart; and

(b) The sample for each test must have been collected at least 7 days apart and tested for trichomonosis.

3. Except as otherwise provided in subsection 4, the owner or lessee of an infected herd shall not lease or transfer ownership of any bull or cow, or any heifer that is 20 months of age or older, from the herd during a period in which the herd is under a hold order.

4. The owner or lessee of an infected herd may release any cattle from the herd to a slaughter channel. If an owner or lessee releases any cattle from the herd to a slaughter channel, the owner or lessee must provide documentation, on a form approved by the Administrator, to the Department that the cattle arrived at the slaughter channel.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.658 Exposed herd: Classification; placement under and release from hold order; lease and transfer of ownership; release to slaughter channel. ([NRS 561.295](#), [571.120](#), [571.150](#), [571.170](#))

1. If, through an epidemiological investigation, a trichomonosis epidemiologist determines that a neighboring herd has had contact with an infected bull, the Director will classify the herd as an exposed herd and place it under a hold order.

2. Before the Director releases an exposed herd from a hold order, an accredited veterinarian must ensure that:

(a) Each test eligible bull in the exposed herd receives an official test for trichomonosis within 12 months after the herd was placed under a hold order;

(b) Each test eligible bull is determined to be clear of trichomonosis or is released to a slaughter channel;

(c) Each test eligible bull receives and bears an official tag; and

(d) The official tag number and classification of each test eligible bull is recorded on a test chart.

3. Before a test eligible bull may be certified to be clear of trichomonosis pursuant to subsection 2, the test eligible bull must have received a negative test result in its most recent official test for trichomonosis.

4. Except as otherwise provided in subsection 5, the owner or lessee of an exposed herd shall not lease or transfer ownership of any bull or cow, or any heifer that is 20 months of age or older, from the herd during a period in which the herd is under a hold order.

5. The owner or lessee of an exposed herd may release any cattle from the herd to a slaughter channel. If an owner or lessee releases any cattle from the herd to a slaughter channel, the owner or lessee must provide documentation, on a form approved by the Administrator, to the Department that the cattle arrived at the slaughter channel.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.660 Duties of owner of herd or qualified feedlot regarding bull receiving positive test result to official test for trichomonosis. ([NRS 561.295](#), [571.120](#), [571.150](#), [571.170](#))
Except as otherwise provided in [NAC 571.662](#):

1. The owner of a herd shall ensure that each bull from the herd that receives a positive test result to an official test for trichomonosis:

(a) Is branded with a hot iron to the left of its tail with the letter "V" in a size not less than 2 inches by 3 inches to signify that it is infected with trichomonosis; and

(b) Is sent by direct movement within 30 days after the owner receives the positive test result to a slaughter channel. The owner shall provide documentation, on a form approved by the Administrator, to the Department that the cattle arrived at the slaughter channel.

2. The owner of a qualified feedlot which has a bull that has received a positive test result to an official test for trichomonosis shall:

(a) Segregate the bull from every breeding cow and heifer housed at the qualified feedlot; and

(b) Confine the bull to a dry lot area that is used to upgrade or finish feed the bull before it goes to slaughter.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.662 Additional testing after bull receives positive test result to official test for trichomonosis. ([NRS 561.295](#), [571.120](#), [571.150](#), [571.170](#))

1. The owner or lessee of a bull that receives a positive test result to an official test for trichomonosis may request the accredited veterinarian or veterinary technician who performed the test to submit the specimen of the bull which was found to contain trichomonas organisms to an official laboratory to confirm the presence of trichomonas organisms by polymerase chain reaction testing. As a prerequisite to exercising this option, the specimen must arrive at the laboratory within 48 hours after being found to contain trichomonas organisms.

2. If polymerase chain reaction testing determines that the specimen of the bull:

(a) Is positive or inconclusive for *Tritrichomonas foetus*, the bull will be considered positive for trichomonosis.

(b) Is negative for *Tritrichomonas foetus*, the bull will be considered negative for trichomonosis.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.664 Handling of specimen collected from bull. ([NRS 571.120](#), [571.150](#)) An accredited veterinarian or veterinary technician shall:

1. Only use an official laboratory to test a specimen collected from a bull; and

2. Ensure that the specimen:

(a) Arrives at an official laboratory for testing within 48 hours after it is collected; and

(b) Is transported and maintained pursuant to official protocol.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.666 Official laboratory: Duties of operator; annual inspection. ([NRS 571.120](#), [571.150](#))

1. The operator of an official laboratory shall ensure that the laboratory is administered in accordance with official protocol.

2. A laboratory must pass an annual inspection conducted by the Administrator to maintain its status as an official laboratory.

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007; A by R208-08, 2-11-2009)

NAC 571.668 Penalties. ([NRS 571.120](#), [571.150](#), [571.170](#), [571.250](#)) A person who violates any provision of [NAC 571.600](#) to [571.668](#), inclusive, is subject to the penalties set forth in [NRS 571.250](#).

(Added to NAC by St. Quarantine Officer by R135-06, eff. 3-23-2007)

9D

Report from Director
and D.A.G. – Resource
Management Plan as it
pertains to Agency
Status and
Coordination and
Board's legal standing

9E

Report from D.A.G. – legal
foundation for Documents
and Statements from
constituents presented
Board mtg. 12-5-13
regarding BLM EOU
Grazing Agreements
pertaining to Private
Lands

(④ Attachments)



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Winnemucca District Office
Humboldt River Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445
Phone: (775) 623-1500 Fax: (775) 623-1503
Email: wfoweb@blm.gov
www.blm.gov/nv/st/en/fo/wfo.html



In Reply Refer To:
4130 (NV024.06)

DEC 24 2013

CERTIFIED MAIL: (7013 1710 0000 0881 4869) RETURN RECEIPT REQUESTED

Tim Delong and Family
P.O. Box 367
Imlay, NV 89418

Dear Mr. Delong

I want to thank you for your letter to us dated November 13, 2013 that is in response to letters and discussions that this office has had with you when it comes to the BLM's Exchange of Use (EOU) policies. Through these letters and discussions we are both in agreement that 43 CFR § 4130.6-1 allows BLM to issue an exchange-of-use agreement for an applicant "who owns or controls" unfenced and intermingled private lands within a grazing allotment. However, as you indicate in your November 13, 2013 letter, you disagree with BLM's interpretation of what type of evidence you must provide to demonstrate "ownership and/or control" of the unfenced private lands.

After reviewing your November 13, 2013 letter and consulting with our legal counsel, we maintain that under 43 CFR § 4130.6-1, the BLM Winnemucca District requires clear evidence and proof of the ownership or control of the offered private lands, such as a lease, deed, or court order that adjudicates ownership rights.

The federal regulations contained in 43 CFR § 4130.6-1: Exchange-of-Use Grazing Agreements states (*italics and bold added*):

"(a) An exchange-of-use grazing agreement *may be* issued to an applicant *who owns or controls lands that are unfenced and intermingled with public lands in the same allotment* when use under such agreement will be in harmony with the management objectives for the allotment and will be compatible with the existing livestock operations. The agreements shall contain appropriate terms and conditions required under § 4130.3 that ensure the orderly administration of the range, including fair and equitable sharing of the operation and maintenance of range improvements. The term of an exchange-of-use agreement may not exceed the length of the term for any leased lands that are offered in exchange-of-use."

ATTACHMENT

#1

3-4-14 NEW TO BOARD

The regulations are quite clear regarding the requirement that an EOU applicant own or control the offered unfenced and intermingled private land for said lands to be eligible for the purposes of EOU.

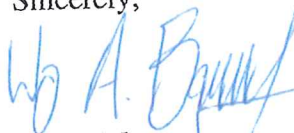
As we stated in our previous correspondence to you (see enclosed letter dated September 13, 2013), the BLM cannot adjudicate rights in private lands or settle disputes between private parties that pertain to private lands. For this reason, in order to process an EOU application, BLM requires clear evidence and proof of the ownership or control of the offered private lands, such as a lease, deed, or court order that adjudicates ownership rights. If you believe you have rights in private property for which you currently have no lease or deed, those rights need to be fully adjudicated and reflected in a legal document that can be submitted to BLM to satisfy the requirements of 43 C.F.R. § 4130.6-1.

EOU authorizations under 43 C.F.R. § 4130.6-1 also fall under BLM's discretionary authority to approve or deny applications for EOU. If offered lands fall outside an allotment, are not in harmony with existing livestock operations, are fenced, or if there is no legal instrument showing proof of control, BLM will not authorize EOU on those lands.

You indicated in your November 13, 2013 letter that you have reached out to the current owners of the privately owned lands in question and that you anticipate being able to obtain lease agreements. As you note in your letter, such lease agreements would satisfy the requirement to show ownership or control of private lands under the EOU regulations.

If you have any questions please contact me at (775) 623-1500.

Sincerely,


ACTING FOR Derek Messmer
Field Manager
Humboldt River Field Office

Enclosure: BLM September 13, 2013 Letter

cc:

Pershing County Commissioners
Pershing County District Attorney
Humboldt County Commissioners
Humboldt County District Attorney
Steve Foster, Cooperative Extension
Brad Schultz, Cooperative Extension

Nevada Board of Agriculture
Representative Mark Amodei
Senator Dean Heller
Senator Harry Reid
NACO
Amy Lueders, BLM Nevada State Director
Nevada Cattlemen's Association
Nevada Department of Agriculture
Nevada Board of Agriculture

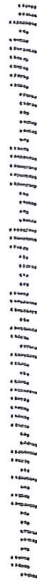
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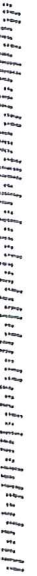
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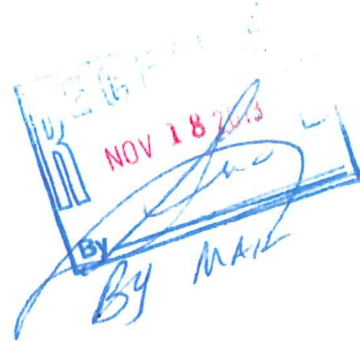
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November 13, 2013

Mr. Gene Seidlitz, District Manager
Mr. Derek Messmer, Field Manager
Humboldt River Field Office
Winnemucca District Office
5100 E. Winnemucca Boulevard
Winnemucca, Nevada 89445



Re: 4130 (NV024.06)

Dear Mr. Seidlitz and Mr. Messmer:

In your correspondence to us dated September 15, 2013, you responded to issues raised by us in correspondence to you sent in August and September of this year and in the meeting we and Mr. Mike Stremmer had in the Winnemucca District office. The subject of the correspondence and the meeting was BLM's Exchange of Use ("EOU") regulations. Of great concern to us was your assertion on the first page of your letter to us to the effect that we "had offered these leased private lands for the purposes of EOU so as to graze additional livestock within the allotments based on your control of these unfenced intermingled land in your grazing allotments." You then went on to say on the same page, and this is where our problem lies, that "[t]hese previously leased private lands, however, are now no longer under your control due to the sale of these lands to other private parties." Citing 43 CFR § 4130.6-1, you state that "[t]he regulations are quite clear regarding the requirement that an EOU applicant own or control the offered unfenced and intermingled private land for said lands to be eligible for the purposes of EOU."

There is no doubt that you are correct in that statement as far as it goes. However, it leaves unexamined exactly what that means. We have researched the matter ourselves and have consulted with those more knowledgeable than we are on this issue. We are not, however, attorneys so what follows is not a legal brief. We are satisfied that our research and consultations provide a firm basis for believing that we do satisfy the requirements of BLM's EOU regulation. For the purposes of the regulations, we do have sufficient legal control of the lands in question, indeed have an ownership interest in those lands, to qualify for EOU status without regard to whether we have a "lease". We will explain this further below, but before we do we should mention that we have reached out to the current owners of the privately-owned lands in question by presenting them with proposed grazing leases/consent to graze agreements for their consideration and signing.

AS PRESENTED 12/5/13
TO BOARD (FOR REFERENCE)

ATTACHMENT

These lease/consent agreement documents specifically provide that they would be in addition to, and not in lieu of, such existing rights as we already have (discussed below) and also provide that we are not waiving any such rights in the process of entering into these agreements. Clearly, of course, if the current landowners enter into these agreements, which we anticipate they will, the question of whether our existing interests in those lands satisfy EOU requirements would be moot at present. As you allude to, the previous lease agreements were sufficient to meet the EOU requirements in the past and these would be no different. Having said this, though, we nevertheless need to point out the interests that we already have and the fact that they are sufficient to meet the EOU's requirement for control both in the off chance that one of the landowners will decide not to enter into the lease/agreement and to put the issue to rest in the future should the lands change hands again and the current situation re-emerges.

We will set out the basic position we have on these lands and then will give you a further explanation. It all comes down to the question of what property interest we possess in the lands in question and what the meaning of control is.

Clearly, the purpose of the "owns or controls" language in § 4130.6 is to ensure that the party has the right to place livestock on the land or the consent of the landowner, however evidenced. For this, of course, ownership of the parcels in fee simple absolute is not necessary. In fact, little privately-owned land in the United States is owned in that state. Virtually all of the private land, if not all of it, is subject to divided interests, often referred to as "split estates". In fact, much of the land owned or managed by the United States is itself subject to such divided interests including, among other things, rights-of-way and other kinds of easements. It is for this reason that you or I would have a title search conducted before we bought a home or commercial property. Not only do we want to know if the seller actually has a title he can pass on, we want to know what easements and other rights may exist on those lands. Someone else may own an access easement, a mineral estate, a water right, a utility easement, or some other interest. Any person buying, inheriting, or otherwise acquiring that land will have to take it subject to whatever right-of-way, easement, profit, or other interest already exists in that land at the time of acquisition. Indeed, a leasehold interest is one of the interests in a third party which the purchaser may be stuck with when he acquires the land, depending on the terms of the lease. If you were to buy a house which the previous owner had leased to a third party for 10 years five years into the lease, you might very well have tenant for the next five years.

The same thing applies to lands which were once federally-owned or managed which subsequently came into private ownership. As you are no doubt aware, a number of interests were created by the Congress of the United States by statutory grants in the 1800s and later. The most famous of these, of course, was the Mining Act of July 26, 1866. The Act of 1866 did a number of things. It recognized the supremacy of states over water, provided for ditch and water conveyance rights-of-way, and specifically provided a grant for the construction of highways over the so-called federal lands which were accepted by the mere fact of use (a part of the Act of 1866 often referred to as "R.S. 2477", but RS 2477 was *only* a part of the Act). This Act, as the Supreme Court specifically noted, was the recognition of preexisting *rights*, not mere privileges.

For example, in Jennison v. Kirk, an 1878 decision of the Supreme Court (98 U.S. 453), the Court particularly found that the Act of 1866 was a “voluntary recognition of a pre-existing right of possession, constituting a valid claim to its continued use [rather] than the establishment of a new one.” The Supreme Court also recognized in the very next year that states could determine the rights of an appropriator of water (including conveyance of the water) and the interaction of those rights with federal rights to water in Broder v. Natoma Water & Mining Company (101 U.S. 274, 276). The Act of 1866 itself pointed to local and state laws, customs, and decisions of courts as the basis for determining the existence and scope of those rights. To this day, federal courts, and the BLM itself has recognized this fact and the limitations placed on the federal government by it. See, for example, the 10th Circuit’s 2005 decision in Southern Utah Wilderness Alliance v. BLM (SUWA II) reported in 425 F.3d 735, 740 and 70 Fed.Reg. 20979-80 (Apr. 22, 2005).

The Act of 1866 and later, similar congressional acts were in fact specifically intended to ensure that the rights recognized would be protected when the lands subject to them passed out of federal ownership and/or control and into private hands. Otherwise, the interests would have been valueless. Even where the federal government still owns land upon which such interests exist, the statutes governing every federal land management agency that exists recognize that the authority granted by those statutes, including but not limited to the Federal Land Policy and Management Act (“FLPMA”) and the Taylor Grazing Act, are limited by valid, preexisting rights.

For these reasons, when rights were acquired in the federally-owned or managed lands by ranchers, miners, and others, those rights survived the transfer of those lands into private hands, whether by sale, land swaps, or – as in the case here – by statutory grant of so-called checkerboarded lands to railroads which were subsequently sold or transferred to third parties. In fact, Congress could not have stripped the owners of such prior-acquired property interests of their ownership in the transfer of the lands containing them without becoming liable for compensation under the Fifth Amendment. In fact, when the United States claimed before the Claims Court and the Court of Appeal for the Federal Circuit that it had the right to keep a rancher from accessing water on federal lands without its permission (in Estate of Hage v. United States)(see for example, 687 F.3d 1281 (Fed.Cir. 2012), both the Claims Court and the Court of Appeal rejected that claim holding that the United States could not prevent the water rights holder from accessing and using those waters without paying compensation.

Similarly, the Nevada District Court in a case related to the Estate of Hage v. United States case, United States v. Wayne N. Hage and Estate of E. Wayne Hage, also recognized that a water right carried with it a right to access and use that water right across the intervening lands (which in this case had been in federal hands when the right was acquired) and, further, that livestock watering rights carry with them a right to utilize the forage around the waters and around the easements/rights-of-way to the waters up to at least a half-mile on each side of a stream or ditch in which water rights are owned and the access right-of-way to such waters, and a half mile radius around springs, ponds, or other water bodies. These rights, by necessity and law,

survive the transfer of lands from the public domain, federal or state, to private hands, just as when you buy a home on land on which water rights, easements, rights-of-way, mineral rights or other property interests belonging to a third party are located. You buy the land subject to those prior acquired rights.

Just as important as water rights-related rights-of-way and the like is the fact that state law governs grazing rights and what constitutes "consent" to grazing use in the absence of another, pre-existing right, at the least upon privately owned lands and even in the case of federal land absent some specific federal statute governing the federal land. See for example, Mason v. United States, 260 U.S. 545, 558, 43 S.Ct. 200, 67 L.Ed. 396 (1923) and United States v. Doyle, 468 F.2d 633, 636 (10th Cir. 1972). In fact, prior to the enactment of the Taylor Grazing Act in 1934 which assumed a measure of control over federally-owned or managed "public lands", Nevada's range laws also governed grazing on such lands. While one can argue about the effect of the Taylor Grazing Act on the regulation of grazing by the State on federally-owned or managed lands, there is no argument that the State had and has the authority on lands within the state which are not part of the federal domain. For this reason, we look next at Nevada's Range Laws.

In 1931, the Nevada Legislature became concerned for the regulation of grazing and the maintenance of peace and order, particularly in the light of the importance of grazing to the economic well-being of the state of Nevada. It enacted NRS 568.230 -568.290. Subsequently, it enacted other provisions having to do with what constitutes trespass and how a *withdrawal* of consent must be manifested when an owner of land not subject to a right in a third party to access and use such land wishes to do so. We discuss those provisions later.

Nevada's Range Law was designed to settle the question of who owned what grazing rights on public lands and where. This was done not only to "secure the peaceful and most economical use of public lands for grazing", but also to avoid "controversies that often lead to breaches of the peace" and to "protect[] the grazing uses established by customs based on the experience of the graziers." Ch. 226, Stats. 1931 (source of NRS 568.230 - 568.290). This law, in concert with the water laws of the State of Nevada, was subsequently used to determine the relative rights of graziers when a conflict arose. Section 568.240 specifically addressed both the definition of customary and established use, tied it specifically to persons and their grantors and predecessors-in-interest, and placed limits on the changes that could be made in customary uses. These facts make it clear that the Legislators were establishing and protecting the rights of persons and entities, not simply regulating uses generally. Specifically, this section provided as follows:

1. Customary or established uses as graziers, otherwise than under operation of law, as used in NRS 568.230 to 568.290, inclusive, shall be deemed to include the continuous, open, notorious, peaceable and public use of such range seasonally for a period of 5 years or longer immediately before March 30, 1931, by the person or

the person's grantors or predecessors in interest, except in cases where initiated without protest or conflict to prior use or occupancy thereof.

2. Any change in customary use so established must not be made after March 30, 1931, so as to prevent, restrict, or interfere with the customary or established use of any other person or persons.

The remaining portions of the Range Law make it clear that its provisions were not intended to interfere with any preexisting valid rights, whether grazing uses, access to and over lands, or the use of water for watering livestock. Further, they could not be used to "compromise[] any valid rights or priorities" which were already established as of March 30, 1931. In short, the Range Law was intended as an exercise of the State's police power to protect the rights of the prior users of the range and their successors. This would, of necessity, include the protection of water rights, access rights, and accompanying forage rights.

As noted above, the Nevada Legislature did make provisions for protecting property owners from trespass, including the "herding or grazing of livestock on the land of another without consent". Specifically, Nevada Revised Statute (NRS 568.300) provides in pertinent part:

1. It shall be unlawful for any person to herd or graze any livestock upon the lands of another without having first obtained the consent of the owner of the lands so to do. The person claiming to be the owner of such lands shall have the legal title thereto, or an application to purchase the same with the first payment made thereon.
2. The livestock which is herded or grazed upon the lands of another, contrary to the provisions of subsection 1, shall be liable for all damages done by such livestock while being unlawfully herded or grazed on the lands of another, together with costs of suit and reasonable counsel fees, to be fixed by the court trying an action therefor. The livestock may be seized and held by a writ of attachment, issued in the same manner as provided in chapter 31 or 71 of NRS, as security for the payment of any judgment which may be recovered by the owner of such lands for damages incurred by reason of violation of any of the provisions of this section. The claim and lien of a judgment or attachment in such an action shall be superior to any claim or demand which arose subsequent to the commencement of the action.

Subsection 3 of this statute, however, makes it clear that rangeland is not subject to these provisions.

3. This section shall not apply to any livestock running at large on the ranges

or commons.

NRS § 568.300. Once again relying on custom (which has the force of law) and practice, as well as lease, license, or permit, the statute defines ranges or commons as “all unenclosed land outside of cities and towns upon which cattle, sheep or other domestic animals by custom, license, lease or permit are grazed or permitted to roam. (NRS § 568.355.) In short, Nevada is what is commonly referred to as a “fence out” or “exclosure” state. As stated by the Nevada Attorney General,

Nevada law has, since 1893, exempted owners of “livestock running at large on the ranges or commons” from civil liability for trespass pursuant to NRS 568.300. See generally Op. Nev. Att’y Gen. No. 259 (August 24, 1965). See also NRS 569.450, which prohibits an award of damages for “trespass of livestock on cultivated land in this state if the land, at the time of the trespass was not enclosed by a legal fence.” (Emphasis supplied.) Also consistent with Nevada’s laws favoring livestock owners, NRS 568.360 exempts the livestock owner from liability for any damages related to the traversing of animals on highways in those areas.

Op. Nev. Att’y. Gen. No. 1998-22 (August 7, 1998) (citing the NRS provisions above and Chase v. Chase, 15 Nev. 259 (Nev. 1880); Yager v. Deane, 853 P.2d 1214, 1217-1218, (Mont. 1993); Kenney v. Walla Walla County, 728 P.2d 1066, 1068, (Wash. Ct. App. 1986); Maguire v. Yanke, 590 P.2d 85, 91 n.7, (Idaho 1978), and cases cited therein).

In short, consent is presumed absent an affirmative act of the landowner demonstrating denial of consent by erecting a legal fence to exclude livestock running at large. (The provisions of NRS 568.300, which prohibit the herding or grazing of livestock upon the land of another without consent, but which excepts livestock running at large, has the effect of permitting an owner of land to erect a fence to show his denial of consent to the grazing of livestock under control and requiring him to erect a fence to exclude livestock running at large. Op. Nev. Att’y Gen. No. 259 (August 24, 1965).

Of course, such “denial of consent” can only be made where the landowner’s control of his property is absolute; that is, the grazer (in this case) has no easement, right-of-way, water right, or forage or other right on the land in question. If he or she does, then the landowner can no more erect a fence to keep that grazer out than can a landowner erect a barrier across a driveway in an access easement owned by a third party. That third party has a property interest and a right to utilize that property for its proper purpose for which further consent cannot be required. The landowner interferes with the right at his legal peril.


Like other rights recognized by the Act of 1866 (such as R.S. 2477 rights-of-way and vested water rights, among others) as well as by other federal and state statutes, there is very often no paper record of the right. Access, ditch, flume, and other rights-of-way recognized or granted by the Act of 1866, for example, did not come accompanied by deeds. The rights were

acquired by the act of construction or use, that is the customary and historic use of the range itself in accordance with local custom, laws, and decisions of courts. Indeed, in the case of livestock, the point of diversion itself was often the cow's head. As we pointed out earlier, stock watering rights are accompanied by an easement or right-of-way to get livestock to and from the water and the right to consume forage on the way to and from the water, rights that were protected and preserved when the lands on or across which such rights existed was transferred into private ownership. The lack of title documents does not render the rights any less valid nor are they any less protected by law. The rights can be established by many different kinds of evidence, historical and other.

For example, the ownership of these rights can be shown by demonstrating that the rancher and/or his predecessors-in-interest customarily used the land for grazing and/or as an access route for livestock to or from water on the property or elsewhere, and/or exercised a forage right in connection with such an easement or right-of-way, or a water right. The historical use and a straightforward tracing of the rancher back through his or her grantors or predecessors-in interest prior to the time of the transfer of the property into private hands. Indeed, your office most likely already has pertinent information in its files on most of the ranchers, if not all of them, in the District in their permit files.

In short, under both state and federal law we have "control" of the private properties for the purposes of BLM's EOU regulations based on our water rights, forage rights, and easements/rights-of-way, acquired prior to the time the lands passed into private hands. Even were this not true, the lands in question clearly qualify as open range land under Nevada Law and consent to use of the land for grazing has not been withdrawn by its owners.

We will be happy to work with you to supply you with any further information you may need.

Sincerely,

Tim DeLong

Tim DeLong Family Trust

cc. Pershing County District Attorney
Pershing County Commissioners
Humboldt County District Attorney
Humboldt County Commissioners
Steve Foster, Cooperative Extension Office, Humboldt
Brad Schultz, Cooperative Extension Office, Pershing
Rep. Mark Amodei
Senator Dean Heller
Senator Harry Reid
NV Board of Agriculture and individual members

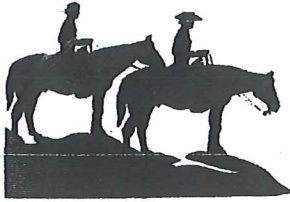
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BLM NV State Director, Amy Leuders

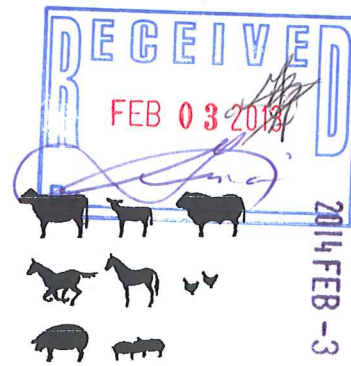
NV Cattlemen's Association and individual officers

NV Dept. of Agriculture and individual officers

Copies made available at Nevada Cattlemen's Association Annual Convention



N-4 State Grazing Board
P.O. Box 461, Panaca, Nevada 89042
(775) 728-4682



STATE OF NEVADA
DEPT OF AGRICULTURE

January 28, 2014

BLM-Greater Sage-grouse EIS
Attn: Joe Tague
1340 Financial Boulevard
Reno, NV 89502

Delivered via Email to:

blm_nv_ca_sagegrouse_eis_comments@blm.gov

Re: N-4 State Grazing Board's Comments to the Draft Land Use Plan Amendment /
Draft Environmental Impact Statement for the Nevada and Northeastern California
Sub-Region for the Greater Sage-grouse

Dear Mr. Tague,

The N-4 State Grazing Board (Board) is a political sub-division of the State of Nevada organized under Nevada Revised Statute 568 Grazing and Range. This Board represents the ranchers who operate on public land grazing allotments within the Ely BLM District and Ely Ranger District. As such, the above-referenced document has the potential to greatly impact the future viability of this Board's members. The Board appreciates this opportunity to comment.

In addition to the below comments, the Board would like to fully support comments and pertinent attachments provided by the following entities:

- Lincoln County, Nevada (attached)
- White Pine County, Nevada
- Nevada Cattlemen's Association
- Sustainable Grazing Coalition
- Nevada Sagebrush Ecosystem Council
- Central Committee Grazing Boards of Nevada

Within the Ely BLM District and Ely Ranger District, the most substantial threats include conifer encroachment, overgrazing by wild horses, and predators. The document accurately identifies conifer encroachment as a major threat, but fails to develop a strategy or tools for addressing the threat on at an appropriate scale. The document inappropriately identifies "grazing" by livestock, wild horses and wildlife generally into a single threat category. The document must rectify this issue by identifying that livestock grazing is currently the most regulated use of public lands, while management of wild horses is the responsibility of the federal land management agencies and management of wildlife is the responsibility of the state wildlife agency. The document does not even list predators as a major threat, even though the handout provided at open public meetings entitled *USFWS-Identified Threats to Greater Sage-grouse and Their Habitat* clearly lists "Predation" as a threat, noting that resource programs for addressing the threats *Applies to all program areas. Establishment of design features and BMPs/RFDs can*

ATTACHMENT
#3

Sage grouse EIS comments Gracian

NEW 3-4-14

January 28, 2014

Joe Tague

Page 2

reduce the threat of predation. These threats must be appropriately identified, framed and addressed in the final document and ROD.

In regards to predation: BMPs and RFDs do not allow the application of all possible management tools to reduce the threat of predation. Coordinating with Wildlife Services to remove predators can also reduce the threat of predation and must be included as part of BLMs strategy for improving sage-grouse numbers. It should also be acknowledged that ranchers and farmers contribute significantly to reducing predator numbers in key Sage-grouse areas.

In regards to conifer encroachment: The Federal Agencies should do everything possible to address conifer encroachment as quickly as possible. Removal of conifer in sage-grouse nesting habitat (i.e. around leks) and brood rearing habitat (i.e. near spring, meadow and riparian areas) should be initiated immediately as such projects have been proven effective through efforts conducted by NRCS via its Sage-grouse Initiative in Oregon. Such efforts would reduce the threat posed by predators, maintain or increase perennial grass and shrub cover, and reduce fuel loading. Such projects should be authorized through categorical exclusions, rather than requiring arduous NEPA processes that delay implementation and increase project costs. Such projects should also be allowed within Sage-grouse habitat in wilderness areas.

In regards to unregulated grazing by wild horses and wildlife: The document should disclose which Herd Management Areas (HMAs), Herd Areas (HAs), and Wild Horse and Burro Territories (WHBTs) within sage-grouse habitat are actually within Appropriate Management Levels (AML). Along the same lines, the document should disclose which Wildlife Management Areas are within elk population objectives. This disclosure is critical as it will show that these management areas within the N-4 Grazing Board's area of interest are over-allocated. This over allocation has resulted in subsequent overgrazing, by wild horses and elk, particularly in key sage-grouse habitats such as riparian areas. It is essential that this problem is acknowledged, as too often regulated livestock grazing is blamed resulting in unjustified cuts in AUMs. The Board recommends that all HMAs, HAs, and WHBTs in sage-grouse habitat be gathered and excess horses removed to meet the low range of AML immediately. ALL horses located in sage-grouse habitat, and outside of designated HMAs shall be gathered and removed immediately. Further, current AML for HMAs, HAs, and WHBTs located in sage-grouse habitat should be reviewed and adjusted in order to meet desired conditions based on ecological site potential, current site condition and state and transition models and in consideration of horses and elk being present year-round with passive management. All of these provisions are consistent with the Wild Horse and Burro Act or existing policies / agreements with NDOW (for elk), and reference to such should be documented. In addition, the BLM should encourage the Nevada Department of Wildlife (NDOW) to implement actions to achieve herd management objectives for elk populations immediately.

In regards to regulated grazing by livestock: The document should disclose that while wild horse and wildlife numbers have exceeded appropriate management levels and herd objectives, livestock numbers have been dramatically reduced. Despite this fact, the document contains a negative tone in regards to livestock grazing, and a major data gap in terms of scientific literature that supports the benefits of grazing in a sagebrush ecosystems (see comments and attachments

provided by Lincoln County and the Nevada Cattlemen's Association). Grazing and agricultural production have been a positive contributing factor to healthy sage-grouse populations for generations. Taken as a whole, the resource development, maintenance and stewardship associated with grazing and agricultural production have historically been paramount in contributing to increases in sage-grouse numbers. The Board demands that grazing be categorized as a valid existing land use per existing law, and recognized as a potential management tool in developing and maintaining sage-grouse habitat resilience, fuels reduction, and control of invasive species. The Board maintains a policy of "no net loss of Animal Unit Months (AUMs)." As such, if grazing is identified as being problematic to sage-grouse, then the following actions should be taken before any reductions in AUMs are considered:

1. Determine if wild horse populations are within AML and elk populations within herd objectives. If not, resolve these issues first. If so,
2. Assess current livestock management strategies and desired conditions based on ecological site potential, current site condition and state and transition models;
3. Determine if livestock grazing is a casual factor for not meeting desired condition; and if so,
4. Work collaboratively with the grazing permittee, or allow the permittee voluntarily, to develop a comprehensive management and monitoring strategy that will result in a trend towards achieving the stated desired condition.

A reduction in AUMs should be an absolute last resort, and only ***considered after*** wild horses are within AML, elk herds are within population objectives, and a comprehensive collaborative livestock management strategy is developed, implemented, and monitored.

The Board does NOT, under any circumstance, support the retirement of livestock grazing allotments. The Board urges that retirement of grazing privileges, and any goal, objective or action in regards to such be eliminated from the final plan and ROD. Elimination of grazing privileges will effectively eliminate the ability to apply this management tool in the future, and result in ranch units that are no longer economically viable. Once a ranch unit is no longer viable, it is often sold or held idle for speculation and /or development purposes, which results in loss of critical habitat associated with private property (i.e. meadows, pasture, etc.) and water (i.e. water rights and developments), fragmentation of habitat, and loss of beneficial active management.

Along these lines, there appears to be a major discrepancy between the BLMs document and the US Fish and Wildlife Service's analysis of grazing. On page xvii of the Executive Summary the document states,

Commenters stated that national grazing policies should be reformed as the requirements are too limiting and impact ranchers' livelihoods. Decisions about livestock grazing national policies are outside the scope of this amendment and are not made in this planning effort. However, the reduction or elimination of livestock (i.e., permitted grazing use) in GRSG habitat is considered. This is consistent with IM No. 2012-169, RMP Alternative Development for Livestock Grazing (BLM 2012a).

In stark contrast, the notice of 12-month petition findings (Page 13940 / Federal Register / Vol. 75, No. 55 / Tuesday, March 23, 2010 / Proposed Rules) from the US Fish and Wildlife Service states,

Aldridge et al. (2008, p. 990) did not find any relationship between sage-grouse persistence and livestock densities. However, the authors noted that livestock numbers do not necessarily correlate with range condition. They concluded that the intensity, duration, and distribution of livestock grazing are more influential on rangeland condition than the livestock density values used in their modeling efforts (Aldridge et al. 2008, p. 990).

With this being the case, the last thing the BLM should be considering is *reduction or elimination of livestock*. As such, Alternatives B, C and F should be eliminated from further consideration. The Livestock Grazing Goals, Objectives and Management Action under Alternative D should be eliminated in addition to any reference to Table 2.6 or 2.7. Furthermore, every effort should be made to work collaboratively with permittees in areas where range health standards are not being met – if livestock grazing is a casual factor in not meeting standards. All existing regulations that provide more flexibility to livestock operators should be available in the collaborative planning process (i.e. Temporary Non-renewable Permittee, Stewardship Contracting, and Allotment Management Plans) as well as implementation of NRCS Sage-grouse Initiative-approved conservation measures.

The Board does NOT, under any circumstance, support goals, objectives or management actions that result in a “taking” of private property. The BLM must acknowledge that water rights are a form of private property in the State of Nevada! As such, the Board is opposed to removal or relocation of water facilities, range improvements, or access to such without the consent of the permittee and/or private property holder. Relocation or removal of range improvements should also be paid for by the BLM. The Board does NOT support federal acquisition of private lands under any circumstance; and, is ADAMANTLY OPPOSED to any designation of any additional special status areas including but not limited to Wilderness, NCAs, and ACECs.

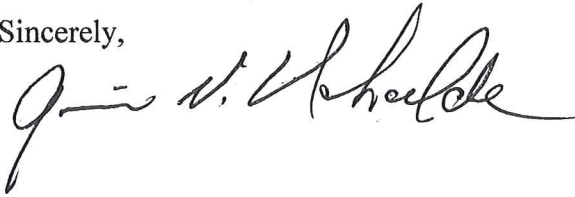
The Board does not support any regulations, restrictions or mapping changes based on the potential threat of Climate Change. Efforts should focus on monitoring of climate factors and vegetation response. Adaptive management is the best means of dealing with this very poorly understood parameter.

The Board was engaged in development of the Ely RMP, which is much more recent and proactive than many of the RMPs throughout the planning area. As such, the Board does not believe that adoption of the “no action” alternative would result in an increased threat to sage-grouse within the Ely BLM District. The Board requests that the BLM consider dropping the Ely BLM District from the planning area, and issue a ROD that does not amend the Ely District’s RMP. If this suggestion is not adopted, then the Board would urge that the BLM adopt the State of Nevada-proposed Alternative (E) as its ‘preferred alternative’ in its Final document and ROD.

January 28, 2014
Joe Tague
Page 5

Please feel free to contact me at 775-289-0599, or Connie Simkins, Board Secretary, at 775-962-1333 with further questions or additional information needs.

Sincerely,

A handwritten signature in black ink, appearing to read "Gracian Uhalde". The signature is fluid and cursive, with the first name "Gracian" being more prominent and the last name "Uhalde" following in a similar style.

Gracian Uhalde, Chairman
N-4 State Grazing Board

Attached: Comment Letter and Attachments from the Board of County Commissioners,
Lincoln County, Nevada dated January 21, 2014

cc: Nevada Governor Brian Sandoval
Nevada Sagebrush Ecosystem Council
Nevada Congressional Delegation
Nevada Association of Counties



United States Department of the Interior

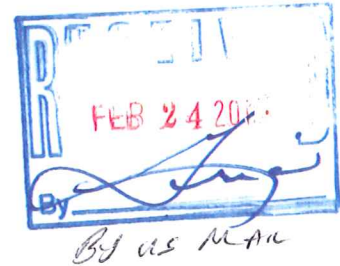
BUREAU OF LAND MANAGEMENT

Surprise Field Office
PO Box 460
Cedarville, CA 96104
www.ca.blm.gov/surprise



In Reply Refer To:
4100 (CAN070) P

February 21, 2014



Dear Interested Public:

The Bureau of Land Management (BLM) Surprise Field Office is seeking public input on a proposed Environmental Assessment (EA) for management of livestock and wild horses on public lands within the Surprise Field Office Area during drought conditions.

According to the US Drought Monitor, northeastern California and northwestern Nevada are currently experiencing drought conditions. Because forage plants are dependent upon precipitation for growth, drought conditions reduce the amount of forage availability for livestock, wild horses, and wildlife. Drought can also reduce the amount of water that is available in streams, seeps, and springs. The proposed EA will be prepared to allow the BLM to respond more effectively to current and future drought conditions, thereby ensuring the long-term health and sustainability of public lands within the Surprise Field Office area.

The proposed EA will examine factors that will be used to make on-the-ground evaluations of allotments that may need temporary management changes due to drought conditions. Some of these factors will be winter/spring precipitation accumulation; water availability for livestock, wild horses, and wildlife; residual forage from previous growing seasons; current year's forage plant growth; plant vigor; soil moisture content; soil/site stability and hydrologic function; riparian health and function; plant community composition; and wild horse body condition. Other factors may also be incorporated as needed.

The proposed EA will be prepared to analyze a range of temporary drought response alternatives that could potentially be used to mitigate the effects of drought. These responses include temporary partial or complete closure of allotments; temporary suspension in animal unit months; temporary changes to season of use; temporary changes in grazing duration; temporary fencing of critical areas; targeted grazing of monotypic invasive annual plant communities; temporary water hauls; temporary above ground pipelines; and wild horse removals. Any temporary drought response alternatives implemented would be assessed on a yearly basis.

Pursuant to the National Environmental Policy Act (NEPA) and Counsel on Environmental Quality regulations for implementing NEPA, the proposed EA will identify, describe, and evaluate resource protection measures that would mitigate the possible impacts of drought management actions.

The BLM is seeking public input by initiating a 30-day public comment period. Comments may be emailed to srfoweb@blm.gov, mailed to BLM Surprise Field; Office P. O. Box 460, Cedarville, CA 96104, or faxed to (530) 279-2171 until 4:30 p.m., March 21, 2014.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your

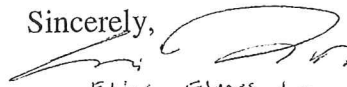
ATTACHMENT
#1

NEW 3-4-14

personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

If you have any questions regarding these matters, please contact Tim Burke, Field Manager for the Surprise Field Office (530) 279-6101.

Sincerely,

A handwritten signature in black ink, appearing to read "Elias Flores".

Elias Flores Jr
for

Acting Field Manager

Tim Burke
Field Manager
Surprise Field Office

Attachment: Drought EA Scoping Flier



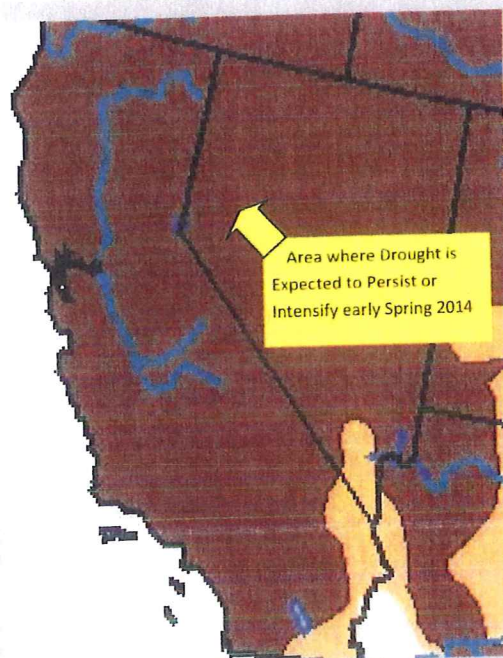
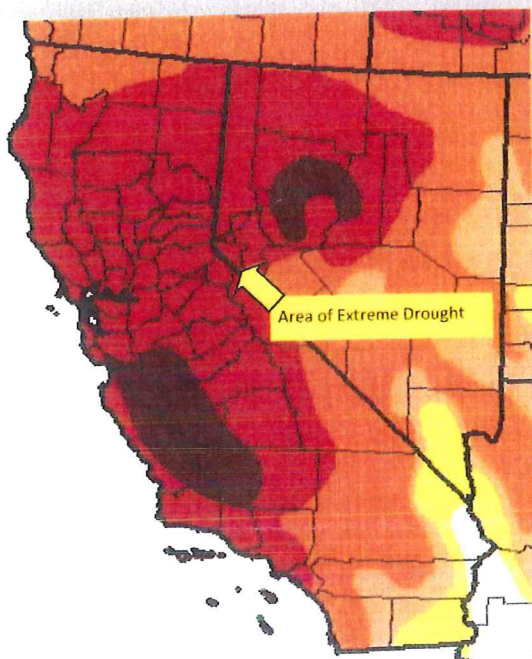
Surprise Field Office Drought Management Plan

Request for Public Input

The Bureau of Land Management (BLM) Surprise Field Office is seeking public input on a proposed Environmental Assessment (EA) for management of livestock and wild horses on public lands within the Surprise Field Office Area during drought conditions.

The proposed EA will examine several factors that will be used to make on-the-ground evaluations of allotments that may need temporary management changes due to drought conditions. The proposed EA will analyze a wide range of temporary drought response alternatives that could potentially be used to mitigate the effects of drought including changes in livestock grazing and wild horse management

According to the US Drought Monitor, northeastern California and northwestern Nevada are currently experiencing extreme drought conditions. The National Weather Service is also predicting that the drought is expected to persist or intensify during this spring. Because forage plants are dependent upon precipitation for growth, drought conditions reduce the amount of forage availability for livestock, wild horses, and wildlife. Drought can also reduce the amount of water that is available in streams, seeps, and springs. While recent storms have been encouraging, the California Office of Emergency Services reports that "Heavy rain and snow would have to fall throughout California very frequently from now until May to reach average annual rain and snowfall. Even with such precipitation, California would remain in drought conditions."



Your input is requested on the process to determine when drought conditions exist and what management activities should or should not be implemented to protect public lands.

Input can be sent to the address below, online to BLM at: srfoweb@blm.gov or faxed to (530) 279-2171 until 4:30 p.m., March 21, 2014. Please include *Drought Management Plan* in the subject line.

Surprise Field Office

602 Cressler St.
P.O. Box 460
Cedarville, California 96104

srfoweb@blm.gov
Phone: 530-279-6101
Fax: 530-279-2171



STATE OF NEVADA
DEPT OF AGRICULTURE

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10

Board Member Presentations

10A

*Ramona Morrison -
Discussion of possible
letter to NV State Bar
for Disciplinary Action
in matter of Case
No.CV24539
Adams vs. Fallini

(Attachment)

*Possible Action

Nevada State Grazing Board, District N-6

HC 61 Box 70

Battle Mountain, NV 89820

November 21, 2013



State Bar of Nevada
Attn: David Clark, Bar Counsel
P.O. Box 50
Las Vegas, NV 89125-0050
600 E. Charleston Blvd.
Las Vegas, NV 89104

Dear Mr. Clark: To whom it may concern:

The N-6 State Grazing Board (the "Board") is a legal entity of the State of Nevada organized under NRS Chapter 568 "Grazing and Ranging". The Board represents the grazing interests of livestock owners and grazers within the Battle Mountain Grazing District. The members of the Board are elected by all grazing permit holders within the applicable district. The Board is involved and often comments on follows issues directly effecting grazing permit holders. For example, the Board may comment on an issue such as a BLM allotment closure effecting one of the district permit holders. On issues of significant importance or concern the Board may take such actions as writing an Amicus brief to the courts or allocating attorney funds to aid a permit holder defending an issue of importance or concern for the Board.

For several years the Board has been closely following and has a keen interest in the case of *Estate of Michael David Adams vs. Susan Fallini*, Case No. CV24539, The Fifth Judicial District Court, The State of Nevada, County of Nye (hereafter the "Fallini Case"), which deals with the issue of "Open Range" laws in the State of Nevada. Issues or cases involving any "Open Range" issue are considered relevant to the Board and can have significant impacts on the Board's members. As such, the Board tries to stay current on cases and changes in the laws that might impact its members. The Fallini Case is one such case.

For your information and as background, the following is a brief summary of the Fallini Case. Ms. Fallini, plagued with a disgraceful and despicable attorney who has now been suspended from practicing law as a result of his representation of Ms. Fallini, failed to answer a request for admission and was deemed to have admitted that a motor vehicle accident involving Michael Adams and a Hereford Cow owned by Ms. Fallini did not occur on open range, even though (1) it did, (2) Ms. Fallini affirmatively stated in her answer the open-range defense as an affirmative defense, and (3) the court took judicial notice that the accident occurred on open range. And it is that very fact—that the accident took place on *open range*—that would have, and should have, provided a complete defense to Ms. Fallini's case as a matter of law. Indeed, but for Ms. Fallini's attorney's appalling professional misconduct and counsel for plaintiffs calculated decision to capitalize on Ms. Fallini's lack of notice and the true status of her case—it is a defense that would have, and should have, resulted in the resolution of the case in favor of Ms. Fallini.

The Board is concerned that not only was the open range defense ignored, but that the court entered judgment in the Fallini Case based false statements, misstatements and other obvious factual

errors provided by counsel for the plaintiff (John P. Aldrich). Some examples of the false statements that the judgment was based on that are of particular concern for the Board and its members are: (i) that it is common practice in Nye County, Nevada for ranchers to mark their cattle with reflective or luminescent tags, (ii) that the cow that was hit crossed a fence to arrive at the location of the accident, (iii) that the defendant did not track the location of her cattle while they are grazing away from her property, (iv) that the defendant did not remove her cattle from the roadway when notified that the cattle are in the roadway, (v) that the cow that was hit was not visible at night, and (vi) that the cows presence in the roadway of SR 375 (which according to NDOT and the Nevada Attorney General's office is clearly marked and established as "open range") was the cause of the accident. That these statements were accepted as true and put forth as the common practice for ranchers in Nye County, Nevada is troubling and of great concern for our members. The Board can absolutely say that it is not common practice for ranchers to mark their cattle with reflective tags and that the cow did not cross a fence as the accident occurred on an open range where there are no fences near the highway. Further, ranchers cannot know the specific location of their cattle at all times and the reason the highway has clearly marked open range signage is because a cow in the road at night is often difficult to see. It is also a concern to the board that liability was assigned to Fallini when the accident report used by the Plaintiff assigned fault to Adams.

Our members are concerned that the Fallini Case will create new legal precedent and unintended law on the issue of open range and that this case will be used to bring a flood of lawsuits against ranchers and livestock owners in Nevada, while also imposing additional duties and standards on ranchers-standards that are far beyond common practice and not practical. In the Board's view, this is clearly a case of bad lawyers making bad law. The results of this case are astounding to the Board and the potential precedence of this case are of great interest and concern to members of the Board. It is the Board's view the outcome of this case is against public policy, and a manifest injustice has occurred. The Board requests that State Bar of Nevada investigate how a case that is so clearly contrary to Nevada law, based on incorrect factual information and the questionable (possibly unethical) actions of plaintiff's Nevada attorney can be allowed to stand.

Sincerely,

Hank Filippini, Chairman N-6 Grazing Board

CC sent:

10B

*Director's
Evaluation

*Possible Action

11

**Public
Comment**

12

Adjournment