

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING**

**Seventy-Third Session
February 28, 2005**

The Committee on Natural Resources, Agriculture, and Mining was called to order at 1:40 p.m., on Monday, February 28, 2005. Chairman Jerry D. Claborn presided in Room 3161 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Jerry D. Claborn, Chairman
Mr. Kelvin Atkinson, Vice Chairman
Mr. John C. Carpenter
Mr. Mo Denis
Mr. Pete Goicoechea
Mr. Tom Grady
Mr. Joseph M. Hogan
Mrs. Marilyn Kirkpatrick
Mr. John Marvel
Ms. Genie Ohrenschall
Mrs. Debbie Smith

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Mary Garcia, Committee Attaché
Matthew Mowbray, Committee Assistant

OTHERS PRESENT:

Allen Biaggi, Director, Nevada Department of Conservation and Natural Resources

Leo Drozdoff, Administrator, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources

Pam Wilcox, Administrator, Division of State Lands and Division of Conservation Districts, Nevada Department of Conservation and Natural Resources

Glenn Clemmer, Program Manager, Nevada Natural Heritage Program, Nevada Department of Conservation and Natural Resources

Chairman Claborn:

[Called meeting to order. Roll called.] Today we have presentations from three divisions within the State Department of Conservation and Natural Resources.

Leo Drozdoff, Administrator, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources:

You should have in front of you an overview of not only of my presentation, but for State Lands and Natural Heritage as well ([Exhibit B](#)). Today we plan to give you an agency overview, so we'll talk about our mission, our approach in managing the Division of Environmental Protection (NDEP), our organization, staffing, and just touch on our budget.

NDEP's mission was largely carved out of the statutes that created the Division of Environmental Protection. It is to preserve and enhance the environment of the state in order to protect public health, sustain healthy ecosystems, and contribute to a vibrant economy. The tools we utilize to meet our mission are a wide set. We have our traditional regulatory tools. We have regulatory standards, permits, we conduct inspections, insure compliance, and, when necessary, take enforcement action.

We also have a number of assistance programs. We administer a variety of grants and loans, which I'll talk about in the specific budgets and bureaus we discuss later. We also have a number of technical and compliance assistance programs, where we go out and meet with the regulated community and explain requirements of the program. Finally, we have voluntary programs, most notably in our Bureau of Water Quality Planning, where we do a lot of voluntary work with nonpoint source.

As you can see from this structure (bottom left panel, page 2 of [Exhibit B](#)), we have nine bureaus, and we also have a Fiscal and Personnel Management Section. I want to draw your attention to the bottom box on the right-hand side

(page 2 of [Exhibit B](#)). That's the Bureau of Drinking Water. That is actually a proposed transfer pending legislation this session that would bring the drinking water program [Public Water System Supervision Program] from the Nevada State Health Division to NDEP.

[Leo Drozdoff, continued.] Over the last two sessions, we have brought a number of these programs over—first, the laboratory certification program, and then, last session, the Drinking Water State Revolving Fund—so this transfer would be the third and last in a series. It will ensure the work that we do and that the Bureau of Health Protection Services does complement each other.

Our primary oversight board within the Division of Environmental Protection is the State Environmental Commission. It is an eleven-member panel. It adopts all of our regulations. It holds contested case hearings and, in certain programs, primarily our air programs, it ratifies certain administrative penalties.

Two smaller boards that we work with are the Board to Review Petroleum Claims, which comes out of our Bureau of Corrective Actions, and which allows NDEP to work with consultants and landowners to fund cleanup of primarily Petroleum Fund problems.

Assemblywoman Smith:

Regarding the boards and commissions, can you tell us what the makeup of the commissions are, the types of people who serve on them?

Leo Drozdoff:

The State Environmental Commission has 11 members. It is a mix of state agency heads. Currently we have the State Engineer, the State Forester, the head of the Department of Agriculture, the head of the Commission on Mineral Resources, and one other state-appointed member. Then we have six at large that are appointed by the Governor to fill various niches. For instance, there is somebody from the construction industry, somebody from the Board of Health, a rancher, somebody with mining experience, but they are all appointed by the Governor.

Assemblyman Marvel:

You just mentioned the Cleanup Fund. How much money is in that fund now? Doesn't it go to a certain level, and then you drop the tax? Then, after the fund gets down, you reimpose it?

Leo Drozdoff:

That's right. We are at roughly the \$15 million level right now, so we are at the point where we will not be collecting. The way that works is there's a band.

If you're within up to that amount, we will collect from the fund, but once you get above that \$15 million cap, we won't collect. That's where we are today.

Assemblyman Marvel:

Do you give the polluters a certain amount of money to do cleanup themselves? I'm thinking about gas stations putting in underground tanks.

Leo Drozdoff:

Yes, in a nutshell, that is how it works. We have a consultant certification program, so you have to have a certain level of expertise. Then we work with the property owners. Almost all the time, they're advised by their consultants to clean up the work. The work plans and the work itself are overseen by our office, and we build certain milestones into that process. Ultimately, when it is demonstrated to be clean, we move on.

The last board is primarily in our Bureau of Water Pollution Control. It's our Board to Finance Water Projects, sometimes known as the A.B. 198 Board. That's because it was born out of A.B. 198 of the 1991 Legislative Session, which is a grants program that allows the Division of Environmental Protection (NDEP) to work with small utilities to comply with drinking water requirements.

Counting the transfer of the State Health Division, NDEP consists of 238 full-time employees and 1 federal employee housed here in Carson City. Our primary office is in Carson City. We do have a regional office in Las Vegas. I do want to mention that we are opening a one-person shop in Pahrump to work with air issues.

Our programs consist primarily of federally delegated programs, but we have many unique state programs, specifically our mining program that was born strictly out of Nevada statutes and regulations. As you would imagine, we are primarily funded by fees and federal grants. We have 20 budget accounts, 8 of which are executive. The other 12 are non-executive.

The specific programs are air, water, mining, waste, corrective action, and federal facilities (page 3 of [Exhibit B](#)). Our Air Quality Planning program does a lot of things such as air monitoring, smoke management, regional haze, and alternate fuels programs. It is important to note here that Clark County and Washoe County have most of the air programs delegated directly to them.

The other air bureau we have is our Air Pollution Control Bureau, and that is our regulatory arm. Here's where we do the regulations through permitting—we have Classes I, II, and III permitting. Class I is our large facilities, power plants, and mines. Class II and II permitting can be any number of sources. As you can

see (page 3 of [Exhibit B](#)), all told, there are about 525 permitted sources within the Air Pollution Control Bureau.

Assemblyman Carpenter:

I was glad to see it was never your intent, but a lot of counties got the idea you were going to try to make them pave all the roads. They had a meeting in Winnemucca, and it seemed like we got that straightened out. I do appreciate that.

Leo Drozdoff:

That is correct. That is not our intent. We do want to work with the counties, and we have opened a dialog with Humboldt and Elko.

Assemblyman Goicoechea:

Are you inviting the rest of the rural counties in to this summit you're having with Humboldt and Elko? Clearly, we had tried to set up a meeting before session, I think you're aware, with all the counties. Definitely, White Pine, Lander, Eureka are also very concerned about the fugitive dust issue. One of those alkali flats puts up more dust in afternoon than all the roads in rural Nevada. All I'm asking is, are you going to bring all the players to the table?

Leo Drozdoff:

Yes. We started with Humboldt and Elko because we had some business going with them, but we realize it is a statewide issue. It is our plan to deal with and work with fugitive dust with all the counties. We are going to continue to work closely with NACO [Nevada Association of Counties] and others.

Just like with air, we have two water programs. Our first water program is Water Quality Planning. That is the group that goes out and sets standards and does monitoring throughout the state. One important concept is the total maximum daily load (TMDL). Briefly, the way it works is if you have a receiving water that is impaired, we set a standard, a TMDL, to make sure no additional load can be brought to that river or stream until the impairment goes away.

As I said earlier, we operate our water and laboratory certification program within the Bureau of Water Quality Planning.

Again, the regulatory arm in the water program is the Water Pollution Control Program (page 4 of [Exhibit B](#)). We have a number of different regulatory permitting sequences:

- We have our regulation or point source discharges, both the surface and ground water—373 active permits.
- Underground injection control— injection through a well—281 permits.

- Stormwater—that's a different kind of program. The permittees we have are of a short or transient nature, but in 2004 we had over 1,000 permittees.
- Statewide, we've approved 771 tentative maps and 1,028 final maps in 2004.

[Leo Drozdoff, continued.] We operate a number of financial arms here. We have the Clean Water State Revolving Fund—that's waste water. We have the Drinking Water State Revolving Fund—drinking water. We also operate the public water systems grant program stemming from A.B. 198 of the 1991 Legislative Session.

As I said earlier, one of our stand-alone programs built strictly out of State statute and regulation is our Bureau of Mining Regulation and Reclamation. We permit all of our mines through this program—321 active permits. We hold over \$600,000 in financial instruments throughout the state to ensure compliance and to make sure reclamation work gets done. We also regulate closure and chemical stabilization of sites.

Assemblyman Marvel:

Last session we had a problem, particularly with the bonding of the mines. You've still accepting letters of credit, aren't you, in lieu of bonds?

Leo Drozdoff:

Yes, letters of credit and a number of other instruments are still perfectly acceptable.

Assemblyman Marvel:

How's the reclamation fund right now? Do you have any mines that are in bankruptcy that you may have to vitalize the fund for cleanup?

Leo Drozdoff:

By the reclamation fund, are you talking about the State Bond Pool? That's primarily administered through the Commission on Mineral Resources, but I'm not aware that there have been any new bankruptcies that have triggered that fund over the last year.

The Bureau of Waste Management is primarily the bureau that deals with hazardous waste, solid waste, and chemical accident prevention. As you can see (page 5 of [Exhibit B](#)), they regulate generators and treatment facilities. This is the group that deals with solid-waste landfills and, as I just talked about, chemical accident prevention. This is a program that today regulates 45 facilities that handle very highly toxic substances or certain flammable substances, or that manufacture explosives for sale. Basically what we do is

ensure that, should there be a problem, there is emergency preparedness and coordination of emergency response.

[Leo Drozdoff, continued.] Our Bureau of Corrective Action—the Petroleum Fund—currently we've distributed over \$108 million to do cleanups throughout the state. We have a number of different programs here:

- The underground storage tank program
- Remedial action and voluntary cleanup
- A program that is gaining a lot of traction and going quite well is our brownfields restoration program. That's a program where we do cleanups, but we work with the local governments and take a look at what kind of future land use is going to be used, and perhaps clean up the site that is acceptable in a manufacturing environment that may not be as necessary if it was for a residential environment.
- We also regulate our Department of Defense facilities within the Bureau of Corrective Actions.

Finally, our Bureau of Federal Facilities, primarily located in Las Vegas, does oversight of U.S. Department of Energy (DOE) facilities, specifically the Nevada Test Site. We're committed to restoration of the contaminated areas, as well as long-term stewardship.

Assemblywoman Smith:

Going back to the Waste Management programs, how do we regulate the waste that is transported in from other states?

Leo Drozdoff:

It depends on where the waste is going. We require the facilities that we permit to have management plans and to review the transportation requirements at the site. We primarily deal with the facilities, and then require that the people coming in meet certain requirements.

Assemblywoman Smith:

So we do know what's coming in because of that?

Leo Drozdoff:

Yes. That is part of what we inspect to make sure what is supposed to be coming in is, in fact, what's coming in.

Assemblyman Hogan:

I'd appreciate it if you talked a little bit about your enforcement authority and your approach to enforcement. I spent a lot of years with the federal government responsible for following up on regulations not in the environmental

area. I know an agency that gets a reputation as one that responds quickly, somewhat strict though reasonable, tends to avoid problems. If, on the other hand, the agency is relaxed and a bit of a pushover in a controversy, there is not too much incentive for people to stay in compliance and avoid problems.

I guess I want an overall picture of your enforcement authority. Does the board that supervises your agency have to approve enforcement actions? What actions are currently underway in terms of enforcement of your rules for noncompliance?

Leo Drozdoff:

I think NDEP has had a long tradition of being "firm but fair." We do stress compliance first. We certainly take plenty of enforcement actions, but our approach is compliance first. We want to work with communities, regulated industries, et cetera, to achieve compliance, and really reserve enforcement for those that deserve it.

Our enforcement caseload varies from time to time in all the different programs. In terms of oversight, the State Environmental Commission (SEC) can be involved if we take an enforcement action and whoever we take that action against decides they want to appeal. Different programs have somewhat different requirements, but, for the most part, they can appeal our action to the SEC. I would say that we don't have too many appeals that actually get follow-through.

Most of the time our enforcement actions get appealed, but that allows us additional time to make sure we understand the regulated community's concern and vice versa. Ultimately, I don't think too many cases actually go before the State Environmental Commission. In our air programs, the SEC has to approve and ratify our penalties, but that's not the case in all programs.

Assemblyman Hogan:

You've got several thousand people holding permits you've granted in your various programs. That seems to be a lot of locations and corporate entities to oversee. Do you have any way of trying to reach at least the larger, more significant of those facilities that are of greater concern, so they don't just get a permit and are never checked on?

Leo Drozdoff:

Yes. It depends on the program. In our mining program, for example, I think the facilities are routinely inspected at least two to three times a year. In our water and air programs, that number isn't as high, but it is certainly our intent—in our major facilities and water, they go out once a year. Minor facilities at least once

in the permit life, and our permit lives are almost always five years in length. Stormwater is a different animal, because those are primarily construction sites. We have devoted inspectors that spend the vast majority of their time out in the field, both here and in Las Vegas. So yes, I think as a matter of course, we are out at the sites and taking a look at them at least once during their permit life.

Assemblyman Carpenter:

Regarding the water quality, I know there's some controversy of whether the federal agencies have jurisdiction on water quality in the U.S. Bureau of Land Management (BLM) and U.S. Forest Service land. Do we have any oversight or control there? Is it up to the State, or do the agencies have the primary responsibility?

Leo Drozdoff:

In terms of regulating water quality, we are, in fact, the primary agency responsible, whether it's on public lands or not. We do utilize memoranda of understanding primarily with the BLM, so the BLM can monitor their water bodies, and when we monitor the water bodies they're interested in, we share information. However, it is NDEP's responsibility, based on delegation from the Environmental Protection Agency (EPA), to manage the surface waters in the state of Nevada. In terms of groundwater, that's NDEP's responsibility, given to it by the State Legislature.

Chairman Claborn:

Mr. Biaggi, how many divisions do you oversee?

Allen Biaggi:

I believe there are eight. If not for the good people running these programs, it would be an impossible task, but there are some very good, dedicated people in the 891 employees we have in the agency. I've never seen such dedication to a cause as these people have. They're professional and they actually make the job enjoyable and quite easy in overseeing these very difficult programs.

Pam Wilcox, Administrator, Division of State Lands and Division of Conservation Districts, Nevada Department of Conservation and Natural Resources:

I'm going to give you a quick overview of both divisions. The Division of State Lands is a fairly small agency. We have 21 full-time positions and 1 seasonal position. We have four different programs in the office (page 1 of [Exhibit C](#)). We have the State Land Office, the State Land Use Planning Agency, the Tahoe Resource Team, and our newest program, our Question 1 Grant Program. I'll go over each of those very quickly.

[Pam Wilcox, continued.] The State Land Office is one of the State's oldest agencies. As you can imagine, the State has had a land office virtually since statehood. For most of the years of the State, it was in the Surveyor General's Office, but when the Surveyor General's Office, which was a constitutionally elected office, was eliminated in the 1950s, a new Division of State Lands was created inside what was then a brand-new State Department of Conservation and Natural Resources. That is where we have been since then.

We are the State's land office. We acquire land that's needed for new purposes. We dispose of land, and we issue all of the leases, easements, and authorizations of different types that are needed in order to allow the utilization of State land.

We hold title to almost all of the State's land. There are a few exceptions. One exception is the Department of Transportation. They do their own real estate work. Another is the University System. They do their own real estate work. There are some smaller exceptions, one of which is the Legislature; another of which is the Housing Division, Colorado River Commission—there are a few scattered around.

However, we hold the title to virtually all of the State's land. It includes all the land in the Capitol Complex, other than the Legislature. Here is a picture of the Capitol Building (page 2 of [Exhibit C](#)). All of that land under all of those buildings, other than the Legislature, we hold title to. It includes the land in all of the State Parks.

We've given you pictures from two State Parks (page 3 of [Exhibit C](#)). The first one on the left is called Red House. That is in Lake Tahoe-Nevada State Park and is part of the regulatory system for the Marlette Lake Water System, which is on State land, and which provides much of the water to Carson City. The top picture on the right that looks hazy is Berlin-Ichthyosaur State Park in the middle of the state.

The bottom picture on the right is the Southern Nevada Correctional Center in Jean. We hold title to the land under all of the prison facilities. Also Wildlife (NDOW), DMV [Department of Motor Vehicles], DETR [Department of Employment, Training, and Rehabilitation], Highway Patrol, Buildings and Grounds, you name it. Other than a few exceptions I gave you, we hold title to the land. We acquire the land. We dispose of it. We do so strictly in accordance with law. The last thing you have on your agenda today is [A.B. 33](#), which is an agency bill that would modify for the first time in almost 50 years the way in which we dispose of land.

[Pam Wilcox, continued.] The second section within the agency is the State Land Use Planning Agency. The State Land Use Planning Agency (page 4 of [Exhibit C](#)), has two major jobs. The first is that they work on federal land issues. They work to develop federal plans for the use of federal land and policies for federal land.

The second is that we provide land use planning technical assistance for local governments, especially in rural communities. In the small counties across the state, they typically have no planning staff or a very small planning staff. We have two planners on staff who will go out and assist those local governments with master plans or zoning ordinance developments or whatever they may need. As part of that job, we do a lot of planning conferences and we do training for planning commissioners and for county commissioners.

We also have an advisory council. The State Land Use Planning Advisory Council is, as far as I know, the State's only advisory board that has one person from every county. We have 17 members, 1 from each county. They are often county commissioners or planning commissioners or sometimes planning staff, and they look at all the land use planning issues you can think of.

They advise us because in Nevada, land use planning is reserved to local government, so we provide a network to tie these people together to share information with them so we always know how local governments want us to work in the area of land use planning. They look at all kinds of land use issues, like you were just talking with Leo about the air quality issue and the issue of rural roads and the dust problem. We had that on the agenda for the meeting before last at the State Land Use Planning Advisory Council, so we get out the best information we can to local governments around the state.

The top picture (page 4 of [Exhibit C](#)) is Pioche. We are working on a new Lincoln County Master Plan. The bottom picture is Crescent Dunes, which you probably have not seen. They're north of Tonopah, and they are on BLM land, reflecting our federal land programs.

Some of the projects (page 5 of [Exhibit C](#)) we've been involved with recently, or are involved with at the present time are:

- Helping local governments with master plans or zoning ordinances or subdivision ordinances. When we go out and work with local governments, we tell them we are their borrowed staff. We do not bring a State agenda. We ask them to set their agenda to tell us what they need, and we go out and assist them with their needs.

- We comprise a statewide planning network. We tie together all the people in the state who are involved in land use planning, keep them in touch with one another, share information with one another.
- All of the federal landfills—we've spent a lot of time over the years on the Southern Nevada Public Land Management Act. I represent the State on the different working groups that make decisions under that act. We've been involved in the development of the Lincoln County Land Act, and all of those land acts. Watching what has happened with those act and programs over time has been fascinating.
- The Mount Charleston license plate program—we actually have two license plate programs in our office. Not the license plate part of it—that, of course, belongs to the Department of Motor Vehicles—but when the Mount Charleston license plate program was set up, they needed to have an agency that would oversee the expenditure of the funds that would be generated. That program was put in the Division of State Lands because of our success with the Lake Tahoe License Plate program, which we'll talk about in a minute. The Mt. Charleston License Plate program is a brand-new program. At the present time, just over 1,400 plates have been sold, and it's generated about \$40,000.

We are establishing contacts down in the Mt. Charleston area, starting to work with the local community, and, as we get enough money in that fund to do some things, we're going to be issuing grants. They'll probably be grants for things like trailhead signage or recreational facilities associated with the trails, or they could be ecosystem restoration-type projects. We'll be working with local communities to decide the best way to move that program forward.

- The State Land Use Planning Agency also keeps an archive of local land use plans. We keep most of the plans, ordinances, and maps on file so they can share them with one another. We have a good planning library that's available to people for their use.
- We also work a lot, of course on the future of State lands, what the state will need over the long run and how we can help the State meet those needs.

[Pam Wilcox, continued.] Let me tell you what these pictures (page 5 of [Exhibit C](#)) are, too, because they're all good. The picture on the bottom left is from the center of the state. It shows the juxtaposition of the private land in the bottom of the valley and the public land up in the mountains. We spent a lot of

time working at the interfaces and the relationships between those private lands and public lands.

[Pam Wilcox, continued.] The one at the top right is downtown Wells, the historic district. We just had a training session up there for the planning commissioners in Wells.

The one at the bottom right, of course, is the sign that says "Welcome to Rachel." That is part of our Lincoln County Master Plan update that we're working on with the Lincoln County commissioners right now.

Chairman Claborn:

Do they actually have a local master plan for Rachel?

Pam Wilcox:

They do not, but they could if they wanted to. The Lincoln County Commission, at the present time, is very focused on their existing communities—Pioche, Panaca, Caliente, Alamo—and they're also trying very hard to get ahead of the curve on the new communities that are going to be forming at the southern end of the county because of the sale of federal lands. We've been helping them decide how they're going to move forward with those.

Our third program is our Tahoe program. We actually have a Nevada Tahoe Resource Team (page 6 of [Exhibit C](#)), which is an interagency team. We coordinate it, but it also has staff members from the Division of State Parks, the Department of Wildlife, and the Division of Forestry. It is an interdisciplinary program to protect Lake Tahoe.

Among the programs we have are our Environmental Improvement Program (EIP)—you may recall that, back in 1997, then-President Bill Clinton came to Lake Tahoe and kicked off a whole interagency program to protect the lake. We coordinate that program for the State. That program is all about partnerships. We work with federal agencies. I know you had a presentation from the U.S. Forest Service. We work closely with them; we work with the State of California; we work with local governments; we work with the Tahoe Regional Planning Agency (TRPA); we work with lots of private groups. Partnerships are what our Tahoe programs are all about.

We have two Tahoe bond acts that were approved by the voters, one approved in 1986 and one approved in 1996. We have the Lake Tahoe license plate program. The Lake Tahoe license plate program is the most successful of all the state's license plate programs. We have currently over 18,000 active Tahoe

license plates, and we have collected more than \$2.5 million for Lake Tahoe through the life of that program. It's been a great program for us.

[Pam Wilcox, continued.] Finally, we have our Excess Coverage Mitigation. That's a TRPA partnership program. I don't know if you know what coverage rights are, but we assist in the retirement of excess coverage up at the lake.

To give you a quick overview of what some of our Tahoe programs (page 7 of [Exhibit C](#)) are:

- A lot of our projects are erosion control projects. It is critically important up at the lake to keep the soil on the ground and not let it get into the lake.
- A lot of them are water quality treatment programs. We collect runoff and we treat runoff so that, by the time it enters the lake, it will be clean.
- We do stream restoration work. The pattern of human development in the Tahoe Basin has disturbed the natural stream flows, and we are doing our best to restore those streams.
- We do a lot of forest health work, focused especially on fire potential. We are all very nervous about the potential for catastrophic fire in the Tahoe Basin. We spend a lot of time working on that.
- We do a lot of ecosystem restoration, especially in Lake Tahoe-Nevada State Park. I'm sure you all know the natural ecosystem in the Basin was very much disrupted, starting in the 1860s, with the development of the Comstock, when the Basin was clear-cut to take the timber down to Virginia City and the gold and silver mines. We're trying to help restore that ecosystem.
- We do a lot of recreation improvements within the park. We improve people's access to the backcountry, public information, and that type of thing.
- We do a lot of wildlife habitat improvements. We've done a lot of aspen-stand regeneration, especially, which is key for wildlife habitat.
- Finally, we've done a lot of land acquisition, and we manage the lands we've acquired to protect them in an undisturbed condition.

Our new program is Question 1. A quick overview of Question 1, and this is more than just ours. You'll recall Question 1 was a \$200 million conservation

bond measure approved by the voters in 2002. I've given you a quick list of everything that was funded under that \$200 million (page 8 of [Exhibit C](#)).

- \$27 million for State Parks.
- \$27.5 million for the Department of Wildlife.
- \$25 million for the Las Vegas Springs Preserve.
- \$10 million to Clark County for the regional park at the Las Vegas Wash.
- \$10 million for Truckee River projects.
- \$25 million for the new State Museum in Las Vegas.
- \$65.5 million set aside for a grant program to be administered through the Division of State Lands. That's the one we'll talk about.

[Pam Wilcox, continued.] The top picture (page 8 of [Exhibit C](#)) is Horse Creek Meadow. This is a conservation easement acquisition we funded in Round 1. It's in Kings Canyon up here above Carson City. The one on the bottom is in the next valley south, Carson Valley, in Douglas County. That also is a conservation easement acquisition. This is called Kirman Field, and it is one of the most natural parcels left along the Carson River, so we're pleased with the cooperation of the Bently family, who own it.

The grants may be for a lot of different things. This (page 9 of [Exhibit C](#)) is a quick list of what people can apply for grants for:

- Acquisition of land and water for a variety of conservation and open space purposes.
- We issue grants for the construction of recreational trails.
- We issue grants for projects along the Carson River.
- We issue grants for development of the Lake Tahoe path system.
- We issue grants for two different kinds of plans. The first is open space planning and the second is habitat conservation planning.

Round 1 was last year. We issued 26 grants totaling \$4.5 million. We are just in the process of evaluating applications under round two. We have applications that are going to run between \$8 million and \$9 million. That's the 25 applications we're processing right now. We'll be going forward through the expenditure of \$65.5 million, and every two years we'll be telling you what's going on and how it's going.

That picture (page 9 of [Exhibit C](#)) is of Wendover. We have an application pending to put a recreation trail right on that land that you see between the hills and the city of Wendover.

Finally, the other agency, the Division of Conservation Districts. This is truly a small program—we have three full-time positions, but it's a big grassroots

program statewide—of all kinds of programs for the conservation of renewable natural resources. We have 28 local conservation districts. Five members of each district are elected; one or two may be appointed. Every inch of the state is in one conservation district or another. We have a State Conservation Commission, which regulates and sets policy and assists the local districts.

[Pam Wilcox, continued.] These are people programs. That's why the slide I gave you (page 10 of [Exhibit C](#)) shows people meeting. There are not unilateral decisions in these programs. All programs, all decisions, are developed by people meeting together, talking about what their communities' needs are, and developing programs to meet those needs.

Here (page 11 of [Exhibit C](#)) are examples of some of the kinds of programs they have. The top picture is in Smith Valley. This is a river restoration project on the Walker River. On the far side, you can see rock rip rap. The bank on the far side is very steep, and the conservation district program to stabilize the river—this river has been subject to flooding in this area; it has overflowed the land—so on that far side, where it's starting to cut into that bluff—you can see there are houses on top that would eventually be undermined—they've actually put rock rip rap there to reinforce that bank.

On the near side, those are Smith Valley High School kids. They are cutting and planting willows so this near side, the gradual side of the riverbank, is going to be stabilized with willows. This project was put in two summers ago, and it's a good example of the way conservation districts involve young people all over the state in their projects. A lot of educational projects; a lot of kids' projects.

The bottom two slides are from Henderson. The Acacia Demonstration Gardens are a cooperative project of the City of Henderson and the Conservation District of Southern Nevada. You can see how pretty they are. They're just completed. There's one phase yet to go, and the emphasis here is on conservation, both the beauty and also the Demonstration Gardens that educate people about what they can do with planting native vegetation and vegetation that does well in the desert, how they can irrigate, all of those features.

As I said, there are programs like this all over the state: noxious weed control programs, educational programs, soil erosion programs. The conservation district program is always an exciting program to work with because it has almost 200 volunteers all over the state working on making projects like these happen.

Assemblyman Marvel:

Pam, how much is left of your Q1 money?

Pam Wilcox:

We've just barely started. We have \$65.5 million, and we have just issued \$4.5 million worth of grants, so we still have \$62 million left.

Assemblyman Marvel:

Do you have a time table on issuing your grants?

Pam Wilcox:

When we started this, we decided we would sell it roughly in ten bonds over time. You can sell bonds up to six years after they're approved by the voters. Under IRS [U.S. Internal Revenue Service] rules, you have roughly three years to expend those monies. We decided to use all nine of those years. The reason for that is some of our local communities were ready to go. They had projects lined up and were ready to come right in with applications. However, other local governments did not have anything developed, and they were starting from square one, starting to think about their conservation and open space needs. So, by having the money available in small amounts over that long period of time, we're going to give the communities that are just getting started a chance to catch up. We're going to make sure there will be funds available for everyone.

Assemblyman Marvel:

Aren't they backlogged right now on applications?

Pam Wilcox:

Right now, because we come to IFC [Interim Finance Committee] regularly for approval for the funds we need, we are staying right ahead of our need. We do have funds available to fund all of the projects that have been applied for in round 2. I'm not sure they all will be funded, because they're being evaluated. Sometimes people come to us with projects that are premature, that they have this idea, but they need to do more work on it, so sometimes we work with them for another year or so.

Assemblyman Marvel:

How do you evaluate the programs? Who are your evaluators?

Pam Wilcox:

We use the statute and the regulations based on the statute to develop a list of criteria that we look at for each project. Does it have local government support? Does it have local government money in it? Does it have the support of other groups in the community? Does it do something to protect the ecosystem? We have a list of things like that.

[Pam Wilcox, continued.] We have a technical advisory team that's composed of other State agencies and other groups that are involved in all of these areas. They meet and spend several days looking at each of those projects, hearing presentations from the proponents, and ranking them. They give us advice, and we base our decisions on that advice.

Assemblyman Marvel:

Are you still involved with local governments in helping identify lands for disposal?

Pam Wilcox:

Yes.

Assemblyman Marvel:

[You've been] a prime factor. Go all the way back to Senate Bill 40 of the 1983 Legislative Session and identify these lands. It's been very successful. You've done a great job. I think, when we go back to Washington, D.C., this is one of the things we can find out. This is what they want to see.

Pam Wilcox:

That is the most important thing, because no one knows better than local governments what they want the future of that land to be.

Assemblywoman Smith:

With the wildlife habitat programs, do you coordinate at all with the Heritage projects that the Department of Wildlife (NDOW) does?

Pam Wilcox:

Most of Wildlife's projects they would do independently. We might be on an advisory group for them. The only time we would be involved directly in wildlife projects is either if they have applied for any of our funds, or if their projects involve the acquisition or disposal of land. In those, of course, we are the implementing agency. I was trying to think, before I came over, what our most recent land disposals and land acquisitions were.

Our most recent land acquisition was Lockes Ranch in Nye County, which we acquired on behalf of the Department of Wildlife. It has very sensitive springfish in the springs there that they are going to be able to protect because we were able to acquire it.

Our most recent disposal was also of an NDOW parcel in Tonopah, a small piece of land that they used to have a storage shed on that they didn't need any

more. So, we do work closely with the Department of Wildlife, but they do their actual wildlife management programs independently of us.

Allen Biaggi:

Question 1 is very unique because it has multiple-dollar components to various State and local agencies. One of the things we are trying to do—and Pam is helping us very strongly with this, and with the help of the Assistant Director of the Department of Conservation and Natural Resources, Kay Scherer—is bring all of these programs together to share resources and coordinate our various activities to the extent that we can, so we're not just one agency out doing our own thing with Q1. We can play off each other's strengths and weaknesses and do good public outreach, let the public know what they're getting for their dollars, and have all of us work together.

Assemblyman Goicoechea:

Under the Question 1 grant program, who holds title to the land that is acquired? Does that come to State Lands, or does it go to the local entity?

Pam Wilcox:

Under the grant program, it's just a grant. We give them money, and they will hold title. The answer to that can get complicated, because the law requires that if it's a nonprofit group that's going to hold title, the State's interest has to be secured. So we would hold some kind of easement or restriction or something on the deed that would secure the public's investment. If it's a conservation easement, likewise, we would have the State have the right of a third-party enforcer or whatever. We want to make sure that, when we give people a grant to buy land, although they hold title, they are not going to be able to turn around and sell it to somebody, that, over the long run, it will be available to the public.

Assemblyman Hogan:

There are two types of land acquisition that have been or are taking place in southern Nevada. One of those is the effort to secure right-of-way and perhaps other land-related rights in Lincoln County to establish infrastructure to export water to Clark County. The second one has to do with disposition by the county government of publicly owned land surrounding our airport, getting low appraisals and so on. Did your agency have an opportunity to provide any help or advice in either of those situations?

Pam Wilcox:

We have no direct jurisdiction. The various rights-of-way being acquired in Lincoln County are being acquired by local water authorities or, in some cases, by private entities. We have no jurisdiction over what they are doing. We

certainly keep ourselves up-to-date on that. When we go down and meet with Lincoln County—in fact I just had a team down within the last week meeting with Lincoln County—we set down with them and do a training session in which they tell us what their problems are, and we try to help them develop ways to cope with those problems. That has been our only involvement there.

[Pam Wilcox, continued.] As far as the Cooperative Management Area (CMA) near the airport, once again it simply is an interesting land use status problem that we have monitored over the years. We have, in fact, acquired some land for State purposes within the CMA. The new Casa Grande Transitional Housing Center is within the CMA. We certainly are involved with that, but, once again, we have no jurisdiction.

**Glenn Clemmer, Program Manager, Nevada Natural Heritage Program,
Department of Conservation and Natural Resources:**

Our mission is relatively simple. We track sensitive species, the biological entities across the state. We maintain a comprehensive database dealing with the distribution, the occurrences, and population status of all sensitive species across the state of Nevada.

We're eleventh among all states in total diversity of species, plants and animals, across the state. We're sixth among all states in having the most unique species. These are species that only occur in Nevada, occurring nowhere else on the planet. We're tenth among all states having the greatest number of vascular plants. Our mammal diversity is also quite high; we're ninth among all 50 states.

In the bad news column, however, Nevada is also third among all 50 states in having the most species at high risk that occur in very isolated populations and that we consider vulnerable. We gather data, with over 7,500 occurrences of sensitive species made up, as you see here (page 9 of [Exhibit B](#)), with a pretty wide distribution across the state. We are presently tracking approximately 526 species. By tracking, we try to obtain as much information as we can on these species. In addition, we less rigorously add information to what we consider a watch list of 160-some species across the state.

To clarify the systematic pattern in which we work, we rank all species in the state. This gives us an idea of how we can focus our attention on the rarest, most vulnerable species. Then we suggest less emphasis is needed for species that are more widespread or more secure. We rank everything 1–5, with 1 being imperiled species, 2 being a species at risk, 3 rare or vulnerable. Then we don't spend time tracking species that are secure or widespread across the

state. With a small staff, we emphasize those that could be a problem because of their rarity or vulnerability.

[Glenn Clemmer, continued.] Factors we use in ranking all of these with our staff of biologists are:

- The number and condition of population and individuals
- The area or range occupied by the species
- Any information we have on population trends over the years of published information
- The known threats

It's important to note that we're a part of a system called NatureServe. There are similar natural heritage offices in all 50 states, most of the Canadian provinces, and throughout the hemisphere, with offices in Mexico, Peru, Colombia, and so forth. We can, using a compiled information database, find what is truly rare and what is just rare in Nevada, thus helping guide where conservation issues may appear.

For instance, the bald eagle is highly ranked at a 4. In Nevada, it's considered fairly rare. We've had a couple of nesting occurrences, but overall, globally—the "G" rank. "S," of course, is the state rank.

However, if we compare the bald eagle with our next critter, the Moorman White River Springfish, this animal gets a G1, S1. It's rare; it's vulnerable; it only occurs in Nevada in three springs, and it's something that, if we're going to conserve and take care of the species, Nevada has to do it.

We serve the community by doing data requests. Our most usual requests come from the mining operations, private consulting, and the Department of Transportation. We receive approximately 40 percent of our funding from the Department of Transportation. We do environmental clearances for them for their various operations, whether it's a bridge reconstruction, gravel pit, and so forth, where they respond to the NEPA [National Environmental Policy Act (42 USC 4321-4347)] requirements. We provide them with the various data.

[Glenn Clemmer, continued.] In a typical response, we give latitude, longitude, the rank of the species, if there are any federal jurisdictions or regulatory endeavors there. The last column in here (page 10 of [Exhibit B](#)) is the "last occurred." We have data knowing whether something has occurred in the state in the 1930s or whether it comes from a survey of 2004. By compiling this information, we have some idea of how good the data are, how recent they are, and it gives us some process as to the importance of the data.

[Glenn Clemmer, continued.] Our botanists have compiled a "Nevada Rare Plant Atlas." This is an ongoing, updated atlas of rare plants across the state featuring approximately 250 species. This gives you comprehensive information on all the rare plants and their status and distribution. This is only available on their website. It is constantly updated, so as new information comes in, we map that and update the information.

We have a vegetation ecologist who has been with us for three years. He's updating our vegetation ecology informational database. In the last couple years, he's also been working with cheat grass. He is one of my more high-tech guys. Using satellite imagery, he's been able to map cheat grass across the state, giving some indication of the spread of cheat grass. He's covered about 46 percent of the state with his earlier work. Using the early green-up period and the different colors from satellite imagery, and then ground truthing several hundred spots on the ground, he's able to verify and document the extent of cheat grass. With money from BLM [U.S. Bureau of Land Management] and some other matching funds from the Nevada Department of Wildlife, he wants to continue this this spring and do coverage of cheat grass and red brome across the southern part of the state during this next field season.

We also have an environmental scientist working on a wetlands plan (page 11 of [Exhibit B](#)). He will be turning in his draft report from the end of February to the EPA this afternoon. We'll soon have the drafts out and a review of the wetlands across the state. He's also working on an inventory so we can constantly update our monitoring and coverage of wetlands in Nevada.

One of the things we've learned with our operations is that there is a continuum from species being abundant to those that are more vulnerable and even make the endangered/threatened list. We found that a lot of our energy is best put in the central part of that continuum, so the information and the work we do toward the more vulnerable species, if we can prevent them from becoming endangered, we feel that is what our job really is. Once a species becomes endangered, the regulatory mechanisms are rather restrictive and harsh, so in many ways we are trying the work toward the species at risk, working on conservation agreements.

Nevada has five conservation agreements in place. These allow the State agencies, federal agencies, and local planning teams to work together on conservation of species to prevent a listing, which becomes a rather unwieldy process in the state of Nevada.

That is a brief summary of our operations. I'd like to invite you to take a look at our website from time to time to see what information is there on the sensitive species in Nevada.

Assemblyman Marvel:

I appreciate the statement you made on being able to identify these species. Maybe we'll be able to get ahead of the U.S. Fish and Wildlife Service before they list them. I think you do a great job of "red-flagging" when we might be vulnerable.

Glenn Clemmer:

One of our favorite things was when there was a proposal to list the Amargosa toad in Nye County, in Beatty. We worked with the people down there, got a conservation agreement in place, and what could have been a problem became a community effort to work toward protecting the wetlands habitat and developing trails and a whole system around the wetlands of the area. It's been an awful lot of fun and a great success.

Assemblyman Marvel:

You're very effective.

Assemblyman Hogan:

I was curious as to whether it is your agency that other State agencies or private developers would go to if they're about to carry out some form of construction or road-building, and they either may have dug into some apparent fossils or into what may be protected types of species. Is it your agency that they would call and you send someone out to evaluate?

Glenn Clemmer:

They would call us, but we don't send someone out. We provide information for a formal reply and give them information. We don't deal with fossils, just with living materials. The Nevada Department of Cultural Affairs, Division of Museums and History, or State Historic Preservation Office would deal with some of the other aspects of the fossils.

Assemblyman Goicoechea:

Once something is listed, it's extremely difficult for you guys to move away from it or get the data current. I think the last sighting of a trumpeter swan in Nevada was in 1938 in Newark Valley, but if you haven't seen one in the last 70 years, I wonder why that isn't updated or why you would carry a species like that on the books.

Glenn Clemmer:

We try to be as comprehensive as we can. Very importantly, we can track each occurrence to know how old it is, where it came from, and its authority to keep an accurate record. There was one record of a passenger pigeon from Elko County in the 1800s. We have that in our database just for information. Same thing for the condor; there was a condor sighting in Ash Meadows in the 1800s.

We have those just for the completeness, but very often these things are tagged with an "X" indicating they are extirpated so we don't provide emphasis. Likewise, we have a code for accidental species, particularly bird species, which do get blown into the state. One warbler showed up in Las Vegas. We have that in our database just for the reliability of it, but realizing that it biologically is not all that important; it's more a point of interest.

Assemblyman Goicoechea:

I know the chubs, whether it be the Fish Creek Springs or the Newark Valley tui chub or whatever, NDOW biologists said they are there in substantial numbers, yet they are still listed. That's what I'm talking about. It seems like it's slow to bring that ahead.

Glenn Clemmer:

Yes, once something is listed, it's an onerous task to move on, to do research, to do anything. We've learned that preventing a listing is probably the most important part of our job.

Assemblyman Goicoechea:

I'm not sure if they were ever truly listed as endangered or what the ranking was. It seems like they were going to study them in some of these areas. There seem to be, and NDOW will agree, that there are a lot of them, but we don't get any movement on it. That habitat, then, becomes a real issue.

Chairman Claborn:

We will now hear testimony on Assembly Bill 33 from Pam Wilcox, Administrator of the Division of State Lands.

**Assembly Bill 33: Revises provisions governing sale of state land.
(BDR 26-664)**

Pam Wilcox, Administrator, Division of State Lands and Division of Conservation Districts, Nevada Department of Conservation and Natural Resources:

This is an agency bill. As I told you briefly in my earlier presentation, this is a modernization of a statute that has remained essentially unchanged since 1957, when it was passed to make sure that State lands, when they are sold, are sold at their fair market value and in a competitive manner. As drafted in 1957, it gave us two ways to sell land, either by auction or by sealed bid. You'll see those in Section 1, sub 2 [of A.B. 33]:

Whenever the State Land Registrar deems it to be in the best interest of the State, then any land sold by the State not used or set apart for public purposes be sold, he may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold at public auction or upon sealed bids.

That worked well for a long time, but that was almost 50 years ago. Times have changed, and public agencies have developed much more innovative ways to offer land for sale competitively. We are simply asking that you consider working with us to amend our statute to give us the choice either at auction or upon sealed bids or in any similar manner, pursuant to which competitive bids or offers to purchase may be obtained from the public.

Some states and federal agencies are now using processes in which they first use sealed bids to establish interest in a property and then go on to an auction. They can do auctions on the Internet. There are just all kinds of combinations of ways in which states can get the word out that land is for sale and maximize the revenue the State gets upon the sale of lands. This small change will give us the flexibility to consider those different ways in which we can offer land for sale, while still making sure we still offer it for sale competitively and that we still get fair market value for that land.

There's a second change, and that is on the last page, subsection 8. Right now, if we offer land for sale, our procedure says we go through a public notice process after having it appraised, and then we offer it for sale. If we don't get a bidder, we have to start that process over again at square one. We have to pay to have the appraisal updated; we have to pay for new public noticing; and we have to once again offer it at auction or sealed bid.

Very few public agencies do that anymore. After they have once offered it for sale, if there are no takers, then, for a reasonable period of time, they can offer it either over the Internet or in the office for the same base price. It is much more efficient, and it saves us a lot of staff time, and it saves the State a lot of money in processing these sales. That's the second change we're asking you to

make: that if we don't receive or accept a competitive bid or offer, we can, at our discretion, offer those lands directly to someone who will come in and pay the same amount for them so we won't have to go through that whole process all over again, unless, of course, we decide we should for some reason.

[Pam Wilcox, continued.] These two changes would modernize this statute and would give us much greater flexibility to protect the public interest and make sure we get the best dollar for the State upon the sale of State lands.

Assemblyman Goicoechea:

What would you consider a reasonable amount of time before you had to have a reappraisal? I believe in the statute it's either a year or 18 months, isn't it?

Pam Wilcox:

Actually, I'm not aware of any statute that says that. It would depend on where the land was. We generally consider appraisals to go stale in either 6 months or a year, depending on where the land is located. In Clark County, an appraisal is very stale after 6 months. In much of rural Nevada, appraised values may be the same for years. If we're more than 6 months out in an urban area or more than 12 months out in a rural area, we will go back to the appraisal and get a letter of update in which he will tell us whether the market has moved. If it has, we may then pay for a new appraisal. We always want to have land offered at the best estimate we can get of fair market value.

Assemblyman Goicoechea:

The statute I'm referring to would be in place for local government. I believe it's a year, but I'm not sure.

The other thing under subsection 8, why would you not want to at least provide public notice that you were at the point you were going to do a direct sale?

Pam Wilcox:

Because sometimes what happens is the very day after the auction, or within a week after the auction, someone will come in the door and say, "I just heard you were selling this, and I didn't hear about it until today. I'd like to buy it." In that case, we have just given public notice. We've just advertised it for sale. It's hard in these cases to set down one rule of how much time has passed before additional public notice is necessary. We're asking that you leave it to the discretion of the agency. The important thing here is that it's the agency's job to get top dollar for the State when land is disposed of. We have to be set up so we're sure that happens.

Assemblyman Goicoechea:

I agree with you. I've got a lot of respect for State Lands, but I'm a little concerned about that language in here, "The State Land Registrar shall determine" whether he wants to advertise it or not. I think in good, open government—I realize it might cost a little bit more, but I'm not sure. I think we require it of almost every other local government. I don't think the State should be any different, so I'm a little concerned about that language.

Assemblywoman Kirkpatrick:

Mr. Goicoechea is very correct. We worked together on a DMV project in North Las Vegas where there was a lot of public concern about there not being enough notice. You guys were trying to swap some land, and people moved in thinking they were moving close to DMV. Instead, they were moving into multi-family homes because the communication—where you guys swapped Parcel 69 for Aliante, to be exact.

My concern is that the public should always be part of it. I know it costs a few cents to mail some stuff out, but I have a real concern when the public is not part of it, because then they're more apt to complain that they didn't know anything about it, when you can go back and show them. I definitely would support taking that part out.

My other question is, under Section 5, number 2, if you could just clarify what that means, "A person may participate in the sale." Who are you talking about?

Pam Wilcox:

That's the bill drafter's language. That's not the way we had it phrased. What I understood it to mean is that when we put out the public notice, we make it very specific in there. Having "someone who wishes to participate" would do so.

Assemblywoman Kirkpatrick:

I have a concern because we have master plans and because you do work with the local entities. Are there specific parcels that you're trying to sell, or have the needs changed in the area?

Pam Wilcox:

That's a really good question. When we acquire lands, we hold title. It's virtually always for some agency that needs that land. For example, you mentioned the DMV. They have public offices where the public comes to get drivers' licenses and so forth.

[Pam Wilcox, continued.] Land is occasionally determined to be excess. It does not happen often. For example, in the last few years, we've sold a DETR [Department of Employment, Training & Rehabilitation] office that they no longer needed. The way they had redone their operation, they didn't need that particular office anymore. Or the Department of Wildlife had a small storage facility in downtown Tonopah. The storage building had long since disappeared, and it was just a small piece of vacant land.

We do sometimes have land identified as excess. We have a simple process that we follow when an agency comes to us and tells us that land we hold on their behalf is now excess to their needs. We send out notices to all of the other State agencies that might be eligible to use that land and ask them if they are interested. If they are interested, we would work through the procedure of having it used by this other agency.

If we cannot find any other State entity that's interested in that land, we give notice to local government. The statute allows us to sell land directly to local government if they would like to have it for a public purpose. If there is no local government interest, either, then we would go through this process and offer it competitively and get top dollar for the State.

We go out of our way to advertise properties when we are selling them because we want the general public to know who might be affected, and also because we want potential buyers to hear about it and come in and bid it up to get the State as much money for that property as we can. We always have them up on our website. Section 4, which we're not changing, talks about how we have a notice of sale published once a week for four consecutive weeks in a newspaper. That's the minimum. We do as much public noticing as we can. We put out press releases. We absolutely want to hear what the public says and get as much word out there as we possibly can before going ahead with any sale of State land.

Assemblyman Atkinson:

I do have that same concern. I heard Mr. Marvel a minute ago say something about an amendment. I'm just concerned with lines 13 through 15 (page 3 of A.B. 33). That's the same language Mr. Goicoechea had a problem with. Is there a dollar amount the registrar will base a decision on?

Pam Wilcox:

We would always provide additional notice, except for those circumstances where we have just gotten finished with the noticing process, and where it would prevent us from selling the land to somebody to renotice when we've just been through that. We are very much oriented toward public input. That's

what we're about. We have absolutely no desire to not have the public know about it. If we can have three people interested in a piece of land, we can sell it for more money than if only one is interested.

[Pam Wilcox, continued.] However, if we have just been through a notice process, and we have just offered the land for sale and had no bidders, and the auction was held on February 28, and on March 2, someone comes in the door and wants to buy that land for the advertised price, it just doesn't make much sense for us to have to advertise it once again for four weeks. The noticing procedure is an extensive procedure, which I've not asked to be changed because I think it's a good thing to get that notice out. However, it can really cause a problem if we have to go through that again, when we've just finished doing it, before we can sell the land.

I could work with Assemblyman Goicoechea and with anyone you might wish to develop a better way to do it or a better way to phrase it.

Assemblyman Atkinson:

You said if someone comes in after it's been advertised, and now the date has passed, and they want to purchase the land for the listed price. You don't sell it, and the goal is to sell it. If someone comes in and offers \$1,000 less, what do you do then?

Pam Wilcox:

We cannot sell it below appraised value. If they offer \$1,000 less, they can't have it, but if they do offer the amount for which it was advertised, which was based on the appraisal, right now I cannot sell it to them; I have to start the process over again. I have to see if the appraisal needs to be updated. I have to renote it for four weeks in the newspaper. I have to go through all of that and have another auction or sealed bid. This would make it possible for us to sell it.

If someone comes in and wants to buy a piece of land two days after we just had an auction that he didn't find out about, and I have to tell him it's going to be at least another two months before I can offer it to him again, often he will go put his money into another piece of land. He's not willing to wait for two months. So we will have lost that opportunity.

Especially in rural Nevada, the real estate market is limited. There are not a lot of people out there with money in their pockets looking to buy land. When you offer land for sale, you want to hit that magic moment when you have people interested in buying at the same time you want to sell. We're just asking you to give us the flexibility to work with the market to offer land successfully and put it into the hands of private buyers.

Assemblyman Marvel:

Wouldn't you still have to go through the Board of Examiners and IFC before you did this?

Pam Wilcox:

It has to be approved once by the Board of Examiners and the IFC. We wouldn't have to keep going back unless the circumstances were in some way changed.

Assemblyman Marvel:

Would that be the safeguard right there?

Pam Wilcox:

That's a very good safeguard. When I talk to IFC I'm always very specific about what we're offering, what we're in for, what the conditions of the sale will be. The Legislature always knows exactly what we're doing.

Assemblyman Goicoechea:

This would go to IFC to make the determination that we're going to sell it. The bottom line is you advertised it but didn't get a bid on it. Under this present language, A.B. 33, Section 1, subsection 8, lines 13–15, at the point you didn't get any offers, you would be able to, under your determination, if it was close enough to when it was advertised, have the ability to do a direct sale without going to anybody.

Pam Wilcox:

That's correct, but only under the conditions already approved by IFC.

Assemblyman Goicoechea:

I guess what concerns me, and it's typical in government, we think, "Oh, we just advertised that." Then, all of a sudden, we look back and realize it was maybe 6 months ago. We're making a change in statute here that has been in place for 50 years. What if 50 years from now, all of a sudden the State Land Registrar says, "It's been within a year; we'll go ahead and direct-sell it?" Some things change very slowly in rural Nevada and some things very rapidly.

I wouldn't have a problem if we put a 30-day amendment into it, or a 60-day or 90-day amendment, that the State Registrar would have the ability to make that call at that point. I think once we get beyond 90 days, I'd get a little bit nervous, without a time frame on it, about any one individual being able to—this says the appraisal is fairly reasoned; it's within the last year; just go ahead and direct-sell it. I think there could be some arguments.

Chairman Claborn:

I think what Ms. Wilcox is probably trying to do is just simplify how to sell this land without advertising it again. This language here makes it more complex than anything. It didn't simplify it at all. I think you were looking for a small simplification.

Pam Wilcox:

There is indeed a difference between the language we submitted and the language that came from the bill drafter, but that happens often. I know they have a tough job. I know we're asking you something that's difficult. We wrestle with it all the time. As the State's land agency, we are dealing with real estate markets, which are basically private markets. We want to be accountable to the public, to the Legislature, to the Governor, and to everyone. At the same time, we don't want to handicap ourselves so much with procedure that we can't get a fair return to the State. We're asking you to help us find a middle way that is sufficiently accountable, but that enables us to be a proper real estate agent for the State.

Chairman Claborn:

Maybe we can amend this to make it really simple for you. I think Mr. Goicoechea has the workings already.

Assemblywoman Kirkpatrick:

I think if you just take out lines 13–15 of A.B. 33, Section 1, subsection 8, it still allows you to sell it at current market value, so it doesn't tie your hands nearly as much as adding those last three lines. Even if you took those last three lines out, it's still telling you up here you have to give notification, and you can still sell it. So the intent would be that we want to get rid of it at the current market price. That's what I understand those three lines to mean. By taking those lines out, you're actually still giving yourself enough flexibility and keeping current with what we're trying to get.

Assemblyman Atkinson:

I don't know if it needs to be taken out. With the things going on down in southern Nevada, I think we should probably have a time frame on here. Not that it has to be the next day, but I'm concerned about things that are suspicious. Maybe if we put in a timeline, it would help the Committee.

Pam Wilcox:

We can certainly work with 90 days, if that's what makes sense to you.

Chairman Claborn:

Is there any more testimony for A.B. 33? Seeing none, I will close the hearing on A.B. 33. Any comments? We are adjourned [at 3:14 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Attaché

APPROVED BY:

Assemblyman Jerry D. Claborn, Chairman

DATE: _____

EXHIBITS

Committee Name: Natural Resources, Agriculture, and Mining

Date: February 28, 2005 Time of Meeting: 1:40 p.m.

Bill #	Exhibit ID	Witness	Dept.	Description
	A			Agenda
	B	Leo Drozdoff	NDEP, DCNR	12-page PowerPoint presentation: Department of Conservation and Natural Resources, February 28, 2005
	C	Pam Wilcox	Div. of State Lands, DCNR	11-page PowerPoint presentation: Division of State Lands