

Nevada Board of Wildlife Commissioners' Meeting

Agenda

Truckee Meadows Community College
7000 Dandini Blvd
Sierra Building, Room 108
Reno, NV

Videoconferencing Locations:

University of Nevada Cooperative Extension
8050 Paradise Road, Room A
Las Vegas, NV 89123

Great Basin College
1500 College Parkway
High Tech Center 121
Elko, NV 89801

Public comment will be taken on every action item after discussion but before action on each item, and is limited to three minutes per person. The chairman, in his discretion, may allow persons representing groups to speak for six minutes. Persons may not allocate unused time to other speakers. Persons are invited to submit written comments on items or attend and make comment during the meeting and are asked to complete a speaker card and present it to the Recording Secretary. To ensure the public has notice of all matters the Commission will consider, Commissioners may choose not to respond to public comments in order to avoid the appearance of deliberation on topics not listed for action on the agenda.

Forum restrictions and orderly business: The viewpoint of a speaker will not be restricted, but reasonable restrictions may be imposed upon the time, place and manner of speech.

Irrelevant and unduly repetitious statements and personal attacks that antagonize or incite others are examples of public comment that may be reasonably limited.

Please provide the Board of Wildlife Commissioners ("Commission") with the complete electronic or written copies of testimony and visual presentations to include as exhibits with the minutes. Minutes of the meeting will be produced in summary format.

NOTE: County Advisory Boards to Manage Wildlife (CABMW) Members and public comment allowed on each action item and regulation workshop items and at the end of the meeting.

Friday, May 13, 2016 – 9 a.m.

1 Pledge of Allegiance, Call to Order, Introduction and Roll Call of Commission and County Advisory Board Members to Manage Wildlife (CABMW) – Chairman Drew

- **Employee Appreciation – Secretary Wasley**
Several Department of Wildlife employees will receive awards for various years of service.

2 Approval of Agenda – Chairman Drew – For Possible Action

The Commission will review the agenda and may take action to approve the agenda. The Commission may remove items from the agenda, continue items for consideration or take items out of order.

3 **Member Items/Announcements and Correspondence – Chairman Drew – Informational**

Commissioners may present emergent items. No action may be taken by the Commission. Any item requiring Commission action may be scheduled on a future Commission agenda. The Commission will review and may discuss correspondence sent or received by the Commission since the last regular meeting and may provide copies for the exhibit file (Commissioners may provide hard copies of their correspondence for the written record). Correspondence sent or received by Secretary Wasley may also be discussed.

4 **County Advisory Boards to Manage Wildlife (CABMW) Member Items – Informational**

CABMW members may present emergent items. No action may be taken by the Commission. Any item requiring Commission action will be scheduled on a future Commission agenda.

5* **Approval of Minutes – Chairman Drew – For Possible Action**

Commission minutes from the Jan. 29 and 30, and March 24 and 25, 2016 meetings.

6* **Commission Policy 26 – Management Analyst 3 Kim Jolly – For Possible Action**

Currently there are two existing Commission Policies that are numbered “26.” One is entitled “Transparency (2011),” and the other is entitled “Re-establishing, Introducing, Transplanting and Managing Pioneering Rocky Mountain Elk (1995).” The Department is recommending that “Re-establishing, Introducing, Transplanting and Managing Pioneering Rocky Mountain Elk (1995)” be reaffirmed as Policy 26 and that “Transparency” be renumbered as Commission Policy 26A. The Commission may also take action to review the revised Commission Policy index and numbering system.

7* **Humboldt County Elk Sub-plan (Second Reading) – Committee Chairman Eddie Booth and Western Region Biologist 3 Ed Partee – For Possible Action**

The Commission will be presented with the draft Humboldt County Elk Sub-plan for review and possible action. The draft Humboldt County Elk Sub-plan has incorporated edits from discussion with the Nevada Board of Wildlife Commissioners, Humboldt County Commission, and at a sub-planning meeting held on April 12, 2016. This draft is provided for final review and possible adoption.

8 **Nevada Department of Wildlife Project Updates – Secretary Tony Wasley – Informational**

The Commission has requested that the Department provide regular project updates for ongoing projects and programs as appropriate based on geography and timing of meetings. These updates are intended to provide detail in addition

to summaries provided as part of the regular Department report and are intended to inform the Commission and public as to the Department's ongoing duties and responsibilities.

9* **Presentation of Fiscal Year 2017 Draft Predation Management Plan (Final Draft) – Wildlife Staff Specialist Pat Jackson and Game Division Administrator Brian F. Wakeling – For Possible Action**

The Commission will review with the Department the third and final draft of the Fiscal Year 2017 Draft Predation Management Plan. The Commission may take action to modify or endorse the plan.

10* **Consideration of Revisions to Existing Commission Policy 23 on Predation Management (Second Reading) – Game Division Administrator Brian F. Wakeling – For Possible Action**

On March 24, 2016, the Commission heard a proposed revision to make existing Policy 23 consistent with provisions included in Assembly Bill 78 (AB 78) from the 2015 legislative session and current practice. The Commission moved the policy forward with removal of predation policies in subsection B.6. and B.7. on page 3 of the policy because these dealt with expenditures on habitat management, which had been specifically excluded through AB 78. The Commission may take action to modify or adopt this revision of Policy 23.

11 **Administrative Procedures, Regulations and Policy (APRP) Committee Report and Amendments to Commission Policy 1, General Guidelines for the Commission – Commissioner and Committee Chairman David McNinch and Management Analyst 3 Kim Jolly**

A* **APRP Committee Report – Committee Chairman David McNinch and Management Analyst 3 Kim Jolly – Informational**

A report will be provided from recent APRP Committee meetings.

B* **First Reading, Policy 1, General Guidelines for the Commission – Committee Chairman David McNinch and Management Analyst 3 Kim Jolly – For Possible Action**

The Commission will have a first reading of Commission Policy 1, General Guidelines for the Commission, and may take action on changes to Policy 1 as recommended by the APRP Committee. Recommendations include changes to reflect current practices and standards, including a section on Commission Policy record-keeping, and spacing the number of a Commission Policy's "first and second readings" from one meeting to the next before a change to a policy is adopted. The Commission may advance Policy 1 to a second reading for possible adoption at a future meeting.

12* **Duck Stamp Contest Sponsor – Publications Coordinator Aaron Meier – For Possible Action**

In accordance with Commission Policy 50 the Commission will be asked to select a sponsor for the 2017 and 2018 duck stamp contests.

13 **Regulation Update – Chairman Drew – Informational**

A report will be provided on outstanding, pending and future regulations that may require Commission consideration over the next year.

Commission General Regulation – Workshop – Public Comment Allowed

14* **Commission General Regulation 456, Special Incentive Elk Arbitration Panel, LCB File No. R031-15 – Game Division Administrator Brian F. Wakeling – Workshop/Public Comment Allowed**

The Commission will hold a workshop on the temporary regulation which expired Nov. 1, 2015, relating to amending Nevada Administrative Code (NAC) 502.42283 by which the Commission may facilitate decisions by appointing or serving as the arbitration panel should arbitration of elk incentive tag awards become necessary.

During adoption of the permanent NAC, the Legislative Counsel Bureau (LCB) and the Legislative Commission have questioned specific language choices recommended by the Department that directly influence the application of the Administrative Procedures Act (APA). The primary concern expressed by the Legislative Commission deals with the ability of an arbitration panel to issue a final and binding decision without providing a means for appeal. In short, an appointed panel may be able to provide such a decision, yet when the Commission acts in this capacity it may be deemed an administrative act that must be consistent with the provisions of the APA. The LCB suggested the Department add “subject to judicial review” to clarify the appeals process.

15* **Commission General Regulation 461, Industrial Artificial Pond Permits (IAP), LCB File No. R014-16 – Habitat Division Administrator Alan Jenne – Workshop/Public Comment Allowed**

The Commission will hold a workshop to consider regulation changes relating to amending Chapter 502 of the Nevada Administrative Code (NAC). It revises provisions relating to artificial industrial ponds; adds a provision on the purpose of permits; adds definitions for permanent closure and stabilized; adds new provisions and revises existing provisions relating to application, compliance, modification, renewal, and transfer of permits; and modifies provisions relating to assessment fee structure and payment tiers.

The regulation change regarding application, compliance, modification, renewal and transfer of permits will provide clarity on how to manage permits when certain operational or administrative changes occur. The regulation change regarding assessment fee structures and payment tiers will expand the number

of active permit holders required to pay an annual assessment and will increase certain payment tiers. Existing NAC language results in only 55 percent of active IAP permit holders paying an annual assessment, yet NDOW is responsible for managing permits and conducting inspections at all facilities with an IAP permit. The proposed regulation change will eliminate this shortfall, which is currently offset with sportsman dollars, and will create an industry-funded permitting program.

16* **Commission General Regulation 462, Issuing and Verifying Hull Numbers of Vessels, LCB File No. R015-16 – Management Analyst 3 Maureen Hullinger – Workshop/Public Comment Allowed**

The Commission will hold a workshop to consider regulation changes to address federal regulatory changes the U.S. Coast Guard (USCG) has requested states to implement pertaining to hull numbers for vessels and the verification and issuance of these numbers; the processing of certificate of number applications for vessels to include language definitions, standardization of terminology regarding vessels and personal identification information of owners.

In order to receive federal matching funds associated with the Dingle Johnson Act, all states report vessel information annually to the USCG. In an effort to modernize and standardize their vessel database information, which the USCG collects from all of the states, the USCG amended federal law. This federal change standardizes terminology across all of the states and provides direction regarding the method that states assign and verify hull numbers. Ultimately, these federal changes are expected to improve state reporting. As a result the Department must amend state regulation to implement this standardization effort in order to meet the USCG reporting requirements. These changes must be implemented by Jan. 1, 2017.

17 **Reports – Informational**

A **Black Bear Hunt Status Report – Game Division Administrator Brian F. Wakeling**

A report will be provided on the status of the black bear hunt and ongoing population and harvest monitoring.

B **Big Game Hunt Status Report – Wildlife Staff Specialist Mike Cox**

A summary report will be provided on the status of big game.

C* **Tag Allocation and Application Hunt Committee (TAAHC) – Commissioner and Committee Chairman Brad Johnston**

A report will be provided on the committee's recent meeting.

D* **Wildlife Heritage Committee – Commissioner and Committee Chairman Wallace**

A report will be provided on the recent Wildlife Heritage Committee meeting.

- E* **Wildlife Trust Fund Semi-Annual Report – Deputy Director Liz O’Brien**
A report will be provided on the investment and expenditure of the money in the Wildlife Trust Fund for the periods of July 1, 2014 to June 30, 2015, and July 1, 2015, to Dec. 31, 2015, pursuant to NRS 501.3585.
- F **Sage-grouse Update – Secretary Wasley**
Secretary Wasley will provide an update on the status of sage-grouse.
- G **Department Activity Report – Secretary Wasley**
Secretary Wasley will provide a report on recent Department activities.
- H* **Litigation Report – Deputy Attorney General Harry Ward**
- 18 **Public Comment Period**
Persons wishing to speak are requested to complete a speaker’s card and present it to the recording secretary. No action can be taken by the Commission at this time; any item requiring Commission action may be scheduled on a future Commission agenda.

Saturday, May 14, 2016 – 8 a. m.

- 19 **Pledge of Allegiance, Call to Order, Roll Call of Commission and County Advisory Board Members to Manage Wildlife (CABMW) – Chairman Drew**
- 20 **Approval of Agenda – Chairman Drew – For Possible Action**
The Commission will review the agenda and may take action to approve the agenda. The Commission may remove items from the agenda, continue items for consideration or take items out of order.
- 21 **Member Items/Announcements and Correspondence – Chairman Drew – Informational**
Commissioners may present emergent items. No action may be taken by the Commission. Any item requiring Commission action may be scheduled on a future Commission agenda. The Commission will review and may discuss correspondence sent or received by the Commission since the last regular meeting and may provide copies for the exhibit file (Commissioners may provide hard copies of their correspondence for the written record). Correspondence sent or received by Secretary Wasley may also be discussed.
- 22 **County Advisory Boards to Manage Wildlife (CABMW) Member Items – Informational**
CABMW members may present emergent items. No action may be taken by the Commission. Any item requiring Commission action will be scheduled on a future Commission agenda.

Commission General Regulations – Adoption – For Possible Action – Public Comment Allowed

23* **Commission General Regulation 460, Definition of "Spike Elk," LCB File No. R013-16 – Game Division Administrator Brian F. Wakeling – For Possible Action**

The Commission will consider amending NAC 502.104 and 502.1045 to define "Spike Elk" in a manner that limits inadvertent errors in the field. The intent is to consider and possibly broaden the definition of spike in a manner that is consistent with the management objective of defining a spike while reducing the likelihood of errors in harvest identification.

A workshop was held in Yerington on March 25, 2016. The Commission directed the Department to contact Utah to identify if they have had any issues with enforcement regarding the way that their language is written, which is similar to the Department's proposed language. Alternative language, including whether to use the number of branches or antlered points in the definition was also discussed.

24* **Commission General Regulation 456, Special Incentive Elk Arbitration Panel, LCB File No. R031-15 – Game Division Administrator Brian F. Wakeling – For Possible Action**

The Commission will consider amending Nevada Administrative Code (NAC) 502.42283 by which the Commission may facilitate decisions by appointing or serving as the arbitration panel should arbitration of elk incentive tag awards become necessary.

During adoption of the permanent NAC, the Legislative Counsel Bureau (LCB) and the Legislative Commission have questioned specific language choices recommended by the Department that directly influence the application of the Administrative Procedures Act (APA). The primary concern expressed by the Legislative Commission deals with the ability of an arbitration panel to issue a final and binding decision without providing a means for appeal. In short, an appointed panel may be able to provide such a decision, yet when the Commission acts in this capacity it may be deemed an administrative act that must be consistent with the provisions of the APA. The attempts by the Department to recommend acceptable language to adequately describe this nuance have thus far been unclear. Note: See support material for agenda item #14.

Commission Regulations – Adoption – For Possible Action – Public Comment Allowed

- 25* **Commission Regulation 16-12, 2016 Big Game Quotas for the 2016 - 2017 Season – Wildlife Staff Specialists Mike Cox, Cody Schroeder, and Pat Jackson – For Possible Action**
The Commission will establish regulations for the numbers of tags to be issued for mule deer, pronghorn antelope, elk, bighorn sheep, black bear, and mountain goats for the 2016 - 2017 seasons. Note: Support material sent separately.
- 26* **White Pine County Elk Incentive and Damage Arbitration Panel – Game Division Administrator Brian F. Wakeling – For Possible Action**
The Commission may take action to make three appointments to the White Pine County Elk and Damage Arbitration Panel to serve for the next two years (NAC 502.42283 and NAC 504.430).
- 27 **Future Commission Meetings and Commission Committee Assignments – Secretary Tony Wasley and Chairman Drew – For Possible Action**
The next Commission meeting is scheduled for June 24 and 25, 2016, in Elko, and the Commission will review and discuss potential agenda items for that meeting. The Commission may change the time and meeting location at this time. The chairman may designate and adjust committee assignments as necessary at this meeting.
- 28 **Public Comment Period**
Persons wishing to speak are requested to complete a speaker's card and present it to the recording secretary. Public comment will be limited to three minutes. No action can be taken by the Commission at this time; any item requiring Commission action may be scheduled on a future Commission agenda.

*Support material provided and posted to the NDOW website, and updates to support material will be posted at ndow.org

*Support material for this meeting may be requested from Recording Secretary Suzanne Scourby at (775) 688-1599; supporting material for this meeting is available for the public at the Nevada Department of Wildlife, 1100 Valley Road, Reno, NV, 89512. In accordance with NRS 241.020 this agenda closes three days prior to the meeting date and has been posted on the NDOW website at NDOW.org and at the following Department of Wildlife offices: 1100 Valley Road, Reno, NV, 89512; 380 W. "B" Street, Fallon, NV, 89406; 815 E. Fourth Street, Winnemucca, NV 89445; 60 Youth Center, Elko, NV, 89801; 1218 N. Alpha Street, Ely, NV 89301; 744 S. Racetrack Road, Henderson, NV 89015; and 4747 W. Vegas Dr., Las Vegas, NV, 89108.

Notice to the Public: Nevada Department of Wildlife receives Federal Aid in Fish and/or Wildlife Restoration. The U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, age, sex, or disability. Individuals with hearing impairment may contact the Department at 775-688-1500 via a text telephone (TTY) telecommunications device by first calling the State of Nevada Relay Operator at 1-800-326-6868. Disabled individuals in need of special services should contact the Department prior to the meeting at (775) 688-1599.