

**APPROVED MEETING MINUTES OF THE
NEVADA BOARD OF WILDLIFE COMMISSIONERS
ADMINISTRATIVE PROCEDURES, REGULATIONS, AND POLICY
COMMITTEE**

THURSDAY, AUGUST 10, 2017 AT 3:00 P.M.
DOUGLAS COUNTY ADMINISTRATION BUILDING
1616 8TH STREET
MINDEN, NV 89423

1. Call to Order and Roll Call of Committee Members

Chairman McNinch called the meeting to order at 3:00pm.

Members present: Chairman McNinch, Commissioners Wallace, Hubbs and Valentine.

Nevada Department of Wildlife staff present: Deputy Director Jack Robb, Chief Game Warden Tyler Turnipseed, Game Division Administrator Brian Wakeling, Wildlife Staff Specialist Mike Zahradka, and Management Analyst III Jordan Neubauer.

Attorney General's present: Senior Deputy Attorney General Bryan Stockton.

Members of the public present: Rex Flowers, Oliver Starr, Mel Belding, Patrick Donnelly, Fred Voltz, Bill Chamberlain, and Don Molde.

2. Approval of Agenda – Committee Chairman David McNinch

No member comments. No public comment.

COMMISSIONER WALLACE MOVED TO APPROVE THE AUGUST 10, 2017 AGENDA AS PRESENTED. COMMISSIONER VALENTINE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

3. Member Items, Announcements and Correspondence

None.

4. Approval of Minutes

Commissioner Valentine said on page 9 there is a comment and it doesn't specify who said it. Can we add the Commissioner's name to the comment at the bottom?

Chairman McNinch said that we do not have a specific resolution to it.

Commissioner Hubbs said the comment was an agreement. She said if it was a disagreement it would be worth noting.

Commissioner Wallace said he thought everyone agreed so it could be any one of the Commissioners.

Chairman McNinch said just to leave it as it is.

No public comment.

COMMISSIONER WALLACE MOVED TO APPROVE THE MINUTES FROM THE JULY 17, 2017 COMMITTEE MEETING AS PRESENTED BY THE DEPARTMENT. COMMISSIONER HUBBS SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

5. Review of Commission Policy 27 – Protection of Nevada Wildlife Resources

Game Division Administrator Brian Wakeling said this policy was adopted in 2011 and it dealt with concerns with wolves and wolf expansion. The revision you see before you was drafted before the wolf sighting in Nevada. The Department felt that rather than having this narrowly focused on the wolf we wanted to largely balance the state trust versus the federal trust responsibilities. The revision is meant to be broad. This policy acknowledges the Endangered Species Act (ESA) and the Migratory Bird Treaty Act. We work with federal partners on the management. The Department wanted to broaden this and speak to how we coordinate with other cooperating organizations. He can speak to any specific language.

Commissioner Wallace said he received a couple of different emails speaking to the fact that this policy may be directly in violation of the federal law. He asked Administrator Wakeling to speak to how it may be going against the federal law. He wants to know where we are at.

Game Division Administrator Brian Wakeling said to make the statement that this policy is in violation of state or federal law is probably strongly stated. There are a couple of points that he wanted to bring up. He read section 7 that is proposed to be deleted. He said it speaks to the legal approach and philosophy of the Commission. It depends upon what direction and what actions are taken under that. The word “take” has a broad definition under the federal government. The definition of “take” under the state law is defined broadly as well. As the policy is implemented it may be perceived as an unlawful act. The intent of the policy is, “...to pursue all legal options to restore full state authority and control over the management of wolves in Nevada” or any other species. He provided an example of the sage grouse. Since the sighting of the wolf and the confirmation that it was here, the Department has been looking at our legal underpinnings for any action we might undertake. If a wolf were to step into a legally placed foothold trap and any effort the Department went through to try and release the animal from the trap would constitute take under the federal statutes. The Department is currently developing a coordination plan with the U.S. Fish and Wildlife Service (USFWS) so we can clearly delineate what our authorities and options are in those situations. It is far from being finalized, but it identifies that there are certain situations in which a wolf may need to be euthanized and we are trying to spell out under what conditions and authorities we would be able to do so. He

said that he does not think that there is anything in the policy that is inherently unlawful; however, the direction may result in an unlawful activity.

Commissioner Valentine asked about section 6 that is being struck. Is it still true that there is no data to suggest that we have ever had a resident wolf population in Nevada?

Game Division Administrator Brian Wakeling said there is no evidence that we have ever had a self-sustaining population of wolves in Nevada. When we talk about “What is a population?” that is where it really gets to be challenging to define. A population constitutes a group of self-sustaining animals. There is no evidence that wolves were ever common in Nevada. In Yellowstone and typically, in a population that has reached equilibrium, there may be between 3 to 5 wolves for every 1,000 elk. When you look at Nevada’s elk population, we are probably somewhere around 20,000. If you were to introduce wolves into that system and it was not a self-sustaining area, you would see the elk population reduce. Feral horses could provide a nutritional food source for wolves too. He said he would not be surprised to learn that there were wolves that moved in and out of Nevada.

Commissioner Hubbs said she received correspondence. She thought it was a federal preemption issue, but she had some people call it primacy. Some of the verbiage in the policy was not in line with the concept. Part of it was section 7 that is proposed to be deleted. After reviewing the revisions, she thinks if we delete the last 3 sections as proposed it would cover the issues.

Commissioner Wallace said he would like to hear the public comment before he starts more discussion.

Public Comment –

Patrick Donnelly, Center for Biological Diversity, encourages the Committee to support the changes. This brings the policy in harmony with federal law. It is jarring to see a body have principles that contradict federal law. He said his organization supports wolves. He said one day they look forward to having a spirited discussion with the Commission, Department and public about what wolves in Nevada would look like. Removing sections 5 through 7 as proposed is not an endorsement of wolves in Nevada. Federal law does give the authority to the federal government to manage endangered species. He spoke to a court case. They support the newly inserted sections 6 through 8. They agree that the Department is the central factor in managing wildlife in Nevada, endangered and not endangered.

Oliver Starr said members of the committee; I consider myself a stakeholder with respect to wildlife in Nevada. I am a lifelong conservationist and outdoorsman. I grew up on the Colorado Rockies and my family was one of the largest beef producers in the state. While my residence is in California, it is 500 meters from the NV state line. I am quite literally in Nevada in the forest every single day. I am also a believer in the North American Model of wildlife conservation -- one that demands that ALL species be given equal treatment in terms of protection, management and recovery.

The current policy language is problematic. Your efforts have improved it considerably. In particular I commend your removal of language that does not reflect our understanding of predator/prey dynamics and is also contradicted by the best currently available scientific evidence.

I sincerely hope that you will continue your work to improve and modernize Nevada's wildlife policies. Science does not stand still and as our understanding of the natural world evolves so too should our approach to its stewardship.

I treasure our wild public lands, and all the wild things that call those places home. I thank you for your efforts to ensure that future generations will have the chance to likewise enjoy these same places and that when they do the full complement of naturally occurring wildlife will be on the landscape for their wonder and appreciation.

With respect to a wolf population in Nevada; 1907 Nevada bounty records by Vernon Bailey indicate that Nevada was paying bounties and that there were populations of wolves near Elko and possibly also near Arizona.

Bill Chamberlain, Director of the United States Wolf Refuge, spoke to the newly added section 6. He proposed a couple of changes. In the newly added section 7 he proposed changes too. He proposed changes to the newly added section 8.

Rex Flowers suggested a change to the newly added section 6. He would like to add the word "pioneering." He thinks the Department and Commission should take all steps necessary to keep all wildlife out of the state of Nevada that is not historically known to be here. He thinks there should be a statement added to include that.

Fred Voltz said he generally agrees with the changes. He agrees with Mr. Chamberlain, the state should not be battling with the federal government. He is concerned about section 4. Killing wildlife does not do anything to balance predatory and prey relationships. There is a food chain that needs to be respected. This state was at one point a vast inland state, but it has changed, it is now a desert. Nature will change on its own and it needs to be able to do that with as little interruption as possible.

Don Molde said this policy was a mean spirited policy by a totally different Commission. He thinks times have changed. He likes the policy as revised or he doesn't think this policy reads much different than Nevada Revised Statutes (NRS), so he doesn't think we need this policy at all. He likes to talk about wolves and elk at the same time because they seem to be intertwined.

Mel Belding said that the legislature passed a law a while back saying that non-native animals will not be introduced in Nevada. He said all of our sheep came from Asia. He would like to see the language being struck in the revision of the policy stay.

Commissioner Valentine said he agrees with the sportsmen. He has concerns about a wolf population in Nevada. He would like to strike section 5 as proposed, but keep section 6 and 7 that are proposed to be struck.

Commissioner Wallace would like to keep section 7 that is being struck, but only the first line to read, "It is the policy of the Commission and the Department of Wildlife to oppose a permanent population of wolves in Nevada." We could also remove "and the Department of Wildlife" because it is a Commission Policy.

Commissioner Hubbs spoke to the Vernon Bailey records from 1907. She spoke to the wolf and the development in the West. She does not want to jump the gun with one wolf sighting. She does not think we should put something in the policy that runs contrary to science. She thinks that there were wolves here at some point. She likes the policy as revised by the Department. She would like to hear from the Department about the historical presents of wolves. She would like to remove sections 5, 6, and 7 as proposed by the Department.

Game Division Administrator Brian Wakeling said inferences based on recorded take are pretty hard data. Things have changed on the landscape; the presence of elk and feral horses. It is likely that wolves occurred here, but he does not think that the numbers were plentiful. He has no doubt that wolves occurred here and that they were native. When wolves moved in there were about three different waves of wolves as they progressed from the North into the South. The habitat has changed dramatically overtime. The populations that we have today are very different than 100 years ago. Routinely wolf populations are not usually near deer populations. Typically they are tied to a bigger ungulate such as elk and moose. His assessment is that wolves are native to Nevada, but they were never particularly abundant.

COMMISSIONER HUBBS MOVED TO RECOMMEND TO THE COMMISSION TO ACCEPT THE CHANGES TO COMMISSION POLICY 27 AS PROPOSED BY THE DEPARTMENT. CHAIRMAN MCNINCH SECONDED THE MOTION.

Chairman McNinch does not see the need of specifying the wolf. He feels like we could have done that with other species too. What is the wolf listed as in Nevada?

Game Division Administrator Brian Wakeling said the wolf is classified as a game species. It is protected in that even if all federal regulation was removed wolves would still be protected because there is no open season in Nevada. The Commission would have to define the season and limit.

Chairman McNinch said we do it with mountain lions. We have had moose sightings for a while now. He thinks broadening the policy is good. He does not think we are going to have a population of wolves any time soon. He likes the concept of going with the proposed revisions. If we continue to keep our elk population down he thinks the wolf population will stay down too if they are trying to move in.

Commissioner Wallace said this policy went over the edge. He thinks when this was being discussed was during the reintroductions into other states. It was to take a stance and say that we do not want gray wolves in Nevada. His constituents in farming and ranching are opposed to having a population of wolves in Nevada. He said he thinks moose are moving to Nevada because the wolves are chasing them out of Idaho. He thinks the wolves will follow the moose.

Commissioner Hubbs said she understands that. If you look at the title of this policy taking a stance on wolves does not fit within this policy. The sage grouse issue was a demonstration of how the state can work with federal entities and have a successful story. If there is an issue with wolves it might be better to put it in a separate policy. She thinks the wolf issue is a red herring or a satellite issue outside of this policy.

Commissioner Valentine said he made his comments clear. He said he thinks about federal control and what they have done with wild horses in this state. He would like to leave part of section 7 that is being struck as Commissioner Wallace suggested.

Commissioner Wallace asked if there was a policy where this would be more appropriate. He said he cannot think of anything specific. He thinks the Commission changed the policy so much that it seems out of place, but he does not want to leave the first part of section 7 out. That was a major portion of this policy.

Commissioner Hubbs said even if there isn't a policy, maybe the Commission needs to create one to speak to it.

Chairman McNinch said that the Committee can go that way. He said when the policy was created he thinks there was a lot going on with wolves. He said wolves are being managed with hunts in different states and there is opportunity to manage them here. We are not having a lot of problems with wolves today.

Commissioner Hubbs said maybe it could be an item on the agenda for the Commission.

Commissioner Wallace said there needs to be a discussion at the Commission level. He cannot support the motion on the table. He is comfortable deleting sections 5, 6, and part of 7, but he is not comfortable voting to remove all of 7 today.

CHAIRMAN MCNINCH REMOVED HIS SECOND.

Chairman McNinch does not want to force a vote. Is there a motion we would want to make to the Commission? We could ask if they would consider an additional policy.

Commissioner Wallace said to take it to the Commission without a recommendation. Let the Commission know the discussion and comments. He feels that the Committee is at a stalemate; we are stuck at an impasse. He respects the comments.

Chairman McNinch asked if there was a second to Commissioner Hubbs motion.

Chairman McNinch said to take this to the Commission and let them know where the Committee is at.

Commissioner Wallace said this agenda item created a stir across the state. He was getting phone calls. People were thinking that we were going to reintroduce wolves in Nevada. It came from the Farm Bureau. Also, another Commissioner called him to discuss it. He didn't know it would become what it would become. There was a roomful of public comment.

Chairman McNinch agrees. He wants to take it to the Commission too.

Commissioner Hubbs said there were a lot of comments about federal versus state law. Maybe the Committee can come to an agreement and keep the front end of section 7 that is proposed to be deleted.

Commissioner Wallace said he would be comfortable only if the Committee would remove sections 5 and 6 and the portion of 7.

COMMISSIONER HUBBS WITHDREW HER MOTION.

COMMISSIONER WALLACE MOVED TO RECOMMEND TO THE COMMISSION TO APPROVE COMMISSION POLICY 27 AS PRESENTED BY THE DEPARTMENT WITH ONE CHANGE; RENUMBER THE STRICKEN SECTION 7 TO SECTION 9 AND MODIFY IT TO READ, "9. IT IS THE POLICY OF THE COMMISSION AND THE DEPARTMENT OF WILDLIFE TO OPPOSE A PERMANENT POPULATION OF WOLVES IN NEVADA." COMMISSIONER HUBBS SECONDED THE MOTION.

Chairman McNinch is comfortable with that motion. He thinks it is reasonable to take to the Commission.

Commissioner Wallace said it will go to the County Advisory Boards to Manage Wildlife (CABMW) and the public for comment. It can be brought back to the Committee too. He appreciates the time taken.

THE MOTION CARRIED UNANIMOUSLY.

6. Review of Commission Policy 65 – Designation of Wildlife Management Areas

Wildlife Staff Specialist Mike Zahradka provided an update on the changes. The properties that are proposed to be deleted are still owned by the state, but are now nature centers or state parks. One exception is the Railroad Valley Wildlife Management Area is actually owned and managed by the Bureau of Land Management.

Public Comment – None.

COMMISSIONER WALLACE MOVED TO RECOMMEND TO THE COMMISSION TO APPROVE COMMISSION POLICY 65 AS PRESENTED BY THE DEPARTMENT. COMMISSIONER VALENTINE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

7. *Review of Commission Policy 66 – Management and Use of Wildlife Management Areas

Wildlife Staff Specialist Mike Zahradka said the updates mirror updates on Commission Policy 65.

Public Comment –

Fred Voltz offered two editorial changes. On page 4 he has concerns about the vegetation management section. He spoke to herbicides. He would like to emphasize non-lethal herbicide. On the last page he thinks the last sentence should be deleted.

Commissioner Wallace asked about the editorial changes.

Wildlife Staff Specialist Mike Zahradka said yes, those are fair.

COMMISSIONER WALLACE MOVED TO RECOMMEND TO THE COMMISSION TO APPROVE COMMISSION POLICY 66 AS PROPOSED BY THE DEPARTMENT WITH TWO EDITORIAL CHANGES AS SUGGESTED BY MR. VOLTZ. COMMISSIONER VALENTINE SECONDED THE MOTION.

Commissioner Hubbs asked about the priority of use and who is putting in the most for those areas.

Wildlife Staff Specialist Mike Zahradka said the statement is correct. Currently, about 60 percent comes from the Pittman Robertson Act and 40 percent from the Dingell-Johnson Act.

Chairman McNinch offered another editorial change.

Commissioner Wallace and Valentine are fine with the amendment.

Chairman McNinch said without sportsmen and anglers all wildlife would be in a big bind. He thinks it should be recognized.

THE MOTION CARRIED UNANIMOUSLY.

8. Future Committee Meetings and Agenda Items

Chairman McNinch said the next meeting will be in conjunction with the September meeting in Las Vegas.

Commissioner Valentine might not be able to make the meeting.

Commissioner Wallace would prefer it to be Friday morning before the Commission meeting.

Chairman McNinch said to shoot for Friday morning.

Deputy Director Jack Robb said September might be a heavy meeting.

Chairman McNinch asked about Friday night after the Commission meeting.

All members were okay with that.

Chairman McNinch said the time can be determined later. Whatever is soonest after the Commission meeting.

Commissioner Wallace said he would work with the Department to set up a time.

Public Comment – None.

9. Public Comment Period

Patrick Donnelly spoke to Lockes Ranch. He would like the preserve recognized for the endangered railroad valley springfish. He would like the agendas for the Committee meetings to be posted sooner rather than later.

Don Molde, Nevada Wildlife Alliance, spoke to Commission Policy 27. The wolf issue is purely political. We have too many elk as it is. He takes great opposition to what the Committee did in regard to Commission Policy 27.

Fred Voltz said he takes exception to the comments of Wildlife Staff Specialist Mike Zahradka. An honest accounting of the use and source of the money could not presume that 100 percent of Pittman Robertson money is coming from hunters. It comes from gun owners and there are far more gun owners in this county than there are licensed hunters in all 50 states.

Mel Belding said he does not think we have too many elk in Nevada. There are two ways we get Pittman Robertson money; the number of hunting license that are sold and the size of the state. Without the sportsman or fisherman we wouldn't have any federal aid.

Oliver Starr said the wolves that are recovering are not native to the states. They are not bigger more aggressive wolves.

Bill Chamberlain said Mother Nature is a powerful lady; we need to let her do her thing. Let it happen naturally. The wolf is listed on the ESA list. Why is the wolf different from any other predator?

The Committee adjourned at 4:39pm.

Note: The minutes are only a summary of the meeting. A complete record of the meeting can be obtained at the Nevada Department of Wildlife Headquarters office at 6980 Sierra Center Parkway, Suite 120, Reno, NV 89511