

COMMITTEE MEMBERS: CHAIRMAN AND
COMMISSIONER DAVID MCNINCH,
COMMISSIONER TIFFANY EAST,
COMMISSIONER CAVIGLIA

STAFF TO THE COMMITTEE:
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APPROVED MINUTES

NEVADA BOARD OF WILDLIFE COMMISSIONERS

ADMINISTRATIVE PROCEDURES, REGULATIONS, AND POLICY COMMITTEE

THURSDAY, SEPTEMBER 23, 2021 AT 3:30 PM

1. Call to Order, Pledge of Allegiance, Roll Call of Committee Members

Called to order at 3:30pm

Commissioners in attendance: Committee Chairman Dave McNinch, Commissioner East and Commissioner Caviglia

Department staff in attendance: Deputy Director Jack Robb, Management Analyst Kailey Musso, Game Division Administrator Mike Scott, Habitat Division Administrator Alan Jenne, Deputy Director Bonnie Long, Administrative Assistant Alejandra Medina, and Exexecutive Assistant Missy Stanford

Public in Attendance: Karen Boeger, Rebekah Stetson, Tina Nappe, Pat Bruce, Judi Caron, William Molini, Rex Flowers

2 Approval of Agenda

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

The Committee had no comments on the agenda.

Public Comment: None

COMMISSIONER CAVIGLIA MOVED TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER EAST SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0.

3. *Approval of Minutes

The Committee will review and may approve the DRAFT Minutes from the meeting on August 5, 2021.

There were no comments or questions on the minutes.

Public Comment: None.

COMMISSIONER EAST MOVED TO APPROVE THE MINUTES. COMMISSIONER CAVIGLIA SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0.

4. *Review Commission Policy List

The policy list will be reviewed and prioritized for the Committee to begin the policy review process.

Commissioner McNinch asked the Committee if they have had a chance to review the policy list. He asked if any Committee members wanted to bring up something in a timelier manner than listed on the policy sheet.

Management Analyst Kailey Musso added that this might be a good time to send Commission Policy 24 to the TAAHC Committee, following discussions at their Committee Meeting this week. She also noted that the list shows Policy 51 for review at this meeting but it was not noticed online so that Policy will be discussed in November instead.

Used a similar format to the previous document the Committee has used in the past. Management Analyst Musso explained that she tried to space out policies based on Department review timelines and to not load up any one committee meeting. This has us finishing the review around May or June.

Commissioner Caviglia did note that the TAAHC Committee was looking at making changes to the junior hunt so it would be appropriate to discuss Commission Policy 24 at the same time.

The Committee decided to send Commission Policy 24 to the TAAHC.

Public Comment: None

5. *Commission Policy 67 – Federal Horses and Burros

Commissioner McNinch explained that over a year ago, Rebekah Stetson with the Coalition for Nevada's Healthy Lands, Wildlife and Wild Horses reached out and sent us changes they would like the Commission to make to Policy 67 in support of their actions to highlight the horse and burro issues in Nevada. These changes are founded on the Path Forward. Our current policy has a harsher tone than we are hoping for. We are trying to get to a collaborative approach. There is language that has been proposed but it is all up for discussion.

Rebekah Stetson, Coalition for Nevada's Healthy Lands, Wildlife and Wild Horses thanked the Commission for their time. She noted that their proposals are based on the Path Forward. Some of the major changes to the policy that are different than the Path Forward is that the Coalition believes more needs to be done faster; twenty years is too long and could lead to ecosystem destruction. One of the main proposals to language changes outside of the Path Forward is that more be done faster. The change to the policy we suggest is "The NBWC believes that the 20-year timeframe to reach the appropriate management level (AML) as specified in the Path Forward will allow for continued degradation of wildlife habitat and the NBWC supports a more aggressive Free Roaming Horse and Burro (FRHB) Gather Program to reach AML in a much shorter timeframe." She said they also added "the NBWC supports management actions based on scientific research: on FRHB, on use of public land resources and on development of best management practices." The Path Forward

document is being used nationwide, but the only difference in this policy is that we are asking for more to be done faster. Most of you are aware that there have been multiple horse gatherings lately due to the drought. Our hope is to protect those horses and burros.

Commissioner East commented that these are only as strong as we allow them to be; we need to be willing to take a bite. This policy is ten years old and needs to be updated regardless, but she wants to make sure we are willing to go that extra mile and enforce it.

Commissioner McNinch explained that he was referring to the existing policy in regards to having teeth but that he likes where the Coalition's policy is at. While we support the Path Forward, we want to see things happen faster. The tone I would like to take is firm but supportive.

Commissioner Caviglia agreed with Commissioner East's comment. He asked if the Department would follow the policy if the language changes.

Commissioner East asked Division Administrator Alan Jenne for the reason the Department didn't follow through with the policy in the past.

Division Administrator Jenne explained that at the time of the last policy review they looked at this policy but there was no solution, and the tone was poor. There were so many "shalls" that beat up the same people we are relying on to find solutions. When the whole state went over AML, a letter seems to poke your possible partners in the eye. We have always been supportive of removals, and we work with BLM to highlight issues on the range as well as build enclosures. The policy that Rebekah proposed is great with a few possible tweaks we would like to make. We can come up with a solution that will work across the range.

Rebekah Stetson thanked Alan for working with them and noted her excitement for wanting to put this one into fruition.

Commissioner McNinch read part of The Path Forward Document sent by Ms. Stetson to portray all the partners and supporters.

Public Comment:

Tina Nappe, Public, commented that NDOW is an extremely important partner because wildlife has become a victim of the cattlemen and wild horses on the range. To the extent that the Department can participate, would be extremely valuable. Sportsmen are tremendous resources. We recognize BLM as a partner and not someone who is not doing their job; unless we help them be successful, the horses will not be addressed. We discovered that Nevada was not getting its fair share of resources to remove wild horses. The Commission can participate by bringing up information. There are tremendous resources with sportsmen and the conservation community. It is important to recognize the BLM as a partner and not as someone who isn't doing their job. One thing not in the policy is that Nevada is not getting its fair share of resources to remove the wild horses.

Karen Boeger, Public, explained that she thought the 2011 policy is so proactive and she is someone who likes the use of “shall”. If we had been doing all of that in 2011 we may not have ever needed the Path Forward. I do realize how important it is for us to consider this new draft and work together towards that. There were so many impediments to BLM’s ability to carry out appropriate management actions. Excited to work together.

Willie Molini, Public, echoed what Rebekah, Tina and Karen have already said. We look forward to working with NDOW. Even if NDOW were to write a letter every year to the BLM, they still don’t have the resources to accomplish what is asked of them. Our goal is to get them the resources through Congress and the other organizations.

Pat Bruce, Public Lands Director for Friends of Nevada Wilderness, thanked the Committee for their time on this policy and their work across the State. There are a lot of people coming together in one voice on this issue and it is very much needed. Real science should have the path forward and not sensationalism and grandstanding. We are in full support of the revisions to this policy.

Commissioner Caviglia noted that the Coalition provided old version and new version to show what was the original policy and where the changes were made.

The Committee asked the Department to coordinate with the coalition and make the necessary changes.

6. *Commission Policy 26A – Transparency (of methods of determining huntable populations and quotas for ungulates)

Deputy Director Robb explained to the Committee that paragraph a on Policy 26A is in direct conflict with a Nevada Revised Statute. He gave some history on why that change was made at the Legislature a few years back.

Game Division Administrator Mike Scott said that we are prohibited from posting location data. He explained that the Department does put composition data in our status and trends sheets which is posted on our website. There should be very few adjustments or modifications to the data. He mentioned a scenario in which there might be. Biologists do not collect carrying capacity data because it is a moving target and can vary day to day, seasonally and certainly from year to year. Mr. Scott also noted that paragraph d is unrealistic for biologists because each model has at least seven different pages of information. It is not practical to explain all of this on our website. However, we do present all of this information at commission meetings. We give presentations on how the data is collected, where it is used, and how we come up with quota recommendations. If anyone is ever interested in that data, our biologists are available and willing to show people. The Department is committed to transparency, but the document referenced in the policy is not functional.

Commissioner McNinch asked if we had discussed that when we broke this policy out from its original one. He asked us to go back through the records and look at the discussion. He noted that when this policy was enacted, there was not much trust between the Commission

and the Department, but we still need to manage the public's trust. Maybe there is some opportunity to work on it – for example saying that we will post the composition data.

Commissioner East asked what Mr. Scott would propose for transparency?

Game Division Administrator Mike Scott said that we should always post that composition data. We could post any changes we make to the data, but we do not change data unless there is a very compelling reason, it happens so rarely that it might not warrant a policy. He noted that it would be too difficult to post the carrying capacity. He explained that we provide the quota recommendation forms which is an abbreviated form of the models.

Deputy Director Robb explained that we have had conversations on how to best provide support material for quota setting. Our status and trend book is large, and not able to be produced in a timely manner. We are looking at changing process but when the Department down with a policy like this, it can hinder our ability to put out a better product for both the sportsmen and Commission.

Commissioner Caviglia noted that there is a bit of distrust when it comes to quota setting. We may need to wordsmith this to a more workable version. There is distrust out there, not necessarily between the Commission and the Department. We did have a big discussion on carrying capacity and maybe it shouldn't be posted to the website but we may need to hear about it each year.

Commissioner McNinch noted that this is very specific to ungulates and that we should take a step back and speak to a broader transparency policy. It could highlight ways to gain that trust or hold off people becoming less trusting as we move forward.

Public Comment:

Rex Flowers, Public, we need to keep the transparency policy in place. The status book is the one book that every sportsman and group depends on for quota setting. I have about ten years of those books saved on my laptop. They are like a bible for us. We need them at the time of setting quotas. The policy should reflect making those books available in a timely manner for the quota setting. It could be broader and not just include ungulates but birds as well if they are part of the quota making decision. A big problem right now is that you cannot get them unless you pay for them because after a limited amount of time, they go to an outside group who sells them. I would ask you to include those status books rather than the carrying capacity. Carrying Capacities are only good for the year you are working on, drought conditions are noted in big game status book.

Commissioner McNinch asked if the Department was suggesting not doing the big game status book.

Game Division Administrator Mike Scott said that the Department was proposing to put the book out after quotas because there is so much that goes into it and the Game Division is in a crunch. He understands a lot of sportsmen rely on it but considering the crunch that the Game Division is under and considering that the recommendation forms hold most of the

same info, it does not seem necessary to get the book out before the Commission Meeting. The Department would commit to writing a better “rationale” on the recommendation forms to replace the information in the status book. That would also us to compile a better status book.

Commissioner Caviglia noted that it would be better to come with the document they would provide to the public and CABMWs so that they could see the product before determining whether or not to continue using the status book before the meeting.

Commissioner McNinch asked Mr. Scott to confirm what sportsmen would get if they do not get the status book before the meeting.

Game Division Administrator Mike Scott said that oftentimes the biologists only have one morning to update last year’s Status Book. He would like to give them more time to put more thought into it and provide a better product. The quota recommendation forms were never sent out in the past, they were only used internally. Once the Commission found out we used them, it was requested that those be made available to the public. So that is now and additional tool that needs to be provided to the public. The quota recommendation forms are not consistent between regions and is not consistent between biologists so I would prefer to make a better product out of those quota recommendation forms with all the information that is highly desired. We could put the quota recommendation sheets in a book form if that is what is used for quota setting. We have a very difficult time getting both the book and quota recommendation forms done before the Commission meeting.

Commissioner East asked if the quota recommendation forms could be provided earlier should the books be put out at a later time.

Game Division Administrator Mike Scott responded that the Department will still be waiting on data from surveys. The biologists have a very busy springtime and are being asked for data at the same time they are counting sage hens and other species at once.

Commissioner Caviglia believes that the quota recommendation forms hold more information than the status book, thought to add a little more information to those and provide that to the public.

THE COMMITTEE ASKED THE DEPARTMENT TO UPDATE AND POLISH THE POLICY BEFORE APRIL AND TO BRING BACK A QUOTA RECOMMENDATION FORM EXAMPLE.

7. *Commission Policy 1 – General Guidelines for the Commission

Management Analyst Kailey Musso explained that Policy 1 deals with the selection of a Chair and Vice Chair. It also provides that a 2-year meeting calendar will be approved each even numbered year. It gives guidance on Agendas and Conduct of Meetings as well as provides for the compensation of commissioners.

This policy has been updated to reflect changes made at the 2021 Legislative Session. Most of you will remember that we put a bill forward to create an exemption from having to go

to IFC for Wildlife Trust Fund donations. The bill was passed to say that we could accept donations of not more than \$250,000 without previous IFC approval. A report will be provided to the Wildlife Commission and Interim Finance Committee annually containing certain information.

Deputy Director Robb pointed out that this policy gives deadlines on the Commission agenda and support material deadlines. He noted that the Department often gets criticized for not having meeting materials ready in time for the Washoe County Advisory Boards to Manage Wildlife (CABMW) meeting. If we follow this policy, they still do not have time to meet the legal requirements for posting their agenda. There have been repeated conversations with the CABMW, and they have not adjusted their meeting dates. This will continue to be an issue unless the CABMWs adjust their timing.

Commissioner McNinch asked why the CABMWs want to meet two weeks in advance.

Commissioner East provided some insight as to why the Washoe CABMW likes to meet the way they do. The other issue is that they cannot get their action reports into the Commission. She wondered about adding Committee Meetings to this policy.

Deputy Director Robb noted that this really comes into play with the two biggest meetings of the year. He explained the deadlines the Department runs up against.

There was more discussion on Open Meeting Law requirements and regulation deadlines.

No Public Comment.

COMMISSIONER EAST MOVED TO APPROVE COMMISSION POLICY 1 AS AMENDED AND SEND TO COMMISSION FOR CONSIDERATION. COMMISSIONER CAVIGLIA SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0.

****NO PUBLIC IN ATTENDANCE AFTER THIS ITEM***

8. *Commission Policy 4 – Petitions

The recent record number of petitions has brought to a few details in the policy and regulation to light. I know that this committee put a lot of work into updating Policy 4 so there are few changes to the policy itself. We do have changes to the Nevada Administrative Code section that relates to petitions which will be brought to the next Committee meeting.

Commissioner McNinch recalled the work that had been done on this a few years ago. The intent was always to save the petitioner's time by determining if the Commission had statutory authority to hear the petition.

Deputy Attorney General Burkett clarified that NRS 233B.100 requires the agency to respond within 30 days and to deny the petition or initiate rulemaking procedures. The idea came from the fact that 30 days is impractical considering the Commission's meeting practices. The current practice of the Department is that we get the petitioner to agree to a waiver of

the 30-day requirement by choosing a meeting date and location from the schedule that works for them. I suppose good practice is to continue with that manner. DAG Burkett's main concern is that 3a mentions review for legal authorities but then paragraph b seems to be a broader requirement for the Department, not specific to legal authorities. This language is inappropriate and not consistent with the Department's authority. The Commission is specifically created to determine whether petitions with respect to existing procedures should be made, not the Department. DAG Burkett expressed that he likes the language change for the NAC. It should be made clear that the Department will only tell the petitioner whether the statutory authority is there.

There was more discussion on deadlines and options for petitioners.

THE COMMITTEE DECIDED TO HOLD THIS REGULATION UNTIL THE NAC CHANGES WERE BROUGHT TO THE COMMITTEE TO SEND TO THE COMMISSION AS A PACKAGE.

9. *Commission Policy 10 – Wildlife Heritage Tags and Vendors

Management Analyst Kailey Musso explained that the Department didn't have many changes to bring but would still like to discuss Commission Policy 10.

Commissioner Caviglia asked if we should change the word "may" in item 4. He wanted to bring it up because they faced this scenario last year.

Deputy Director Robb noted that the Department wants everyone to get the proposals in on time so that they can be part of the support material. The "may" leaves it open in case we have the flexibility or money.

Commissioner East noted that SCI asked if they could submit their proposal late last year. She believed it did get submitted but the Committee didn't consider it because it was late.

Deputy Director Robb explained that the Department wants the proposals sent in on time so that it can be included in the support material. The Committee and Department did everything they were supposed to last year, but it couldn't get to all of the players in time.

Commissioner East mentioned that we should clarify the first scheduled Commission Meeting of the year since it may be January or February.

No Public Comment.

COMMISSIONER CAVIGLIA MOVED TO SEND THE POLICY AS AMENDED TO THE COMMISSION. COMMISSIONER EAST SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0.

10. *Commission Policy 11 – Wildlife Heritage Grants

The Committee will review Commission Policy 11 and may take action to recommend revising, suspending or repealing the policy.

Commissioner McNinch asked why the change to Policy 11.

Deputy Director Robb and Habitat Division Administrator Alan Jenne noted that this policy is scarce because it points to the Manual. If you look at the Heritage Manual, it spells out the first level review process. We were thinking we could add a scoring piece to the manual that could help the committee with the process.

Commissioner East asked if we should include anything about the principal since it is already addressed elsewhere.

Habitat Division Administrator Alan Jenne explained that it is stronger in regulation, but the Department can ensure that it is explicitly stated in the next Manual revision.

Deputy Director Robb added that at some point in the future we could have a large sum of money. It might be good to put criteria into place that needs to be met in order to spend down the principal in order to protect that pot of money down the road.

Committee Chairman McNinch agreed and mentioned a seed bank or something else that will perpetuate into the future.

There was more discussion on possible projects or criteria.

Public Comment: None

THE COMMITTEE ASKED THE DEPARTMENT TO PROVIDE SIDEBOARDS ON HOW TO SPEND THE PRINCIPLE ON THE ACCOUNT

11. Future Committee Meetings and Agenda Items

November we will be discussing:

- Commission Policy 3
- Commission Policy 4 and NAC 501.195
- Commission Policy 31
- Commission Policy 33
- Commission Policy 40
- Commission Policy 51
- Commission Policy 63
- Commission Policy 64
- Commission Policy 62
- Commission Policy 67

No Public Comment

12. Public Comment Period

None

13. Adjourn at 6:20pm