

REGULAR MEETING: Tuesday, July 9, 1996

PRESENT: Candace Wines Gene Gustin
Preston Wright Jim Collard
Bob Colon (arrived 7:15 pm)

ABSENT: Dick Borino

OTHERS PRESENT: Royce Hackworth, Elko County Commissioner
John Carpenter, Nevada State Assemblyman

The regular meeting of the Elko County Public Land Use Advisory Commission was called to order on Tuesday, July 9, 1996, by Chairman Gene Gustin at 7:05 pm (PST) in the Elko County Public Land Use Advisory Commission meeting room of the Elko County Courthouse.

Chairman Gustin asked for approval of the minutes from the June 25, 1996 meeting. Candace Wines asked for a verbatim transcription of her conversation with Larry Barngrover be included in the minutes. Cliff Gardner asked for his dialog with Mr. Barngrover in regards to the Core of Engineers also be included. (see attached addendum) Jim Collard motioned for approval of the minutes as amended. Candace Wines seconds. Motion passes 4-0.

BLM - INDEPENDENCE MINING CO., LAND EXCHANGE:

Brad Roberts handed out copies of his statements and support documents. Jim Collard handed out a compilation of all data available. The data is listed chronologically. Discussion and review of handouts followed. Jim Collard noted the issue at hand was the accusation of some "underhanded dealings", not the original Environmental Assessment (EA). Mr. Collard also clarified the \$52,000.00 "profit". Mr. Collard told the Board the difference in valuation was essentially donated to the federal government, although no actual monies ever exchanged hands. It was decided amongst the Board members to review all information presented and, if needed, bring back specific items for discussion at the July 23, 1996 regular PLUAC meeting. Cliff Gardner commented on the lack of integrity by agencies in pursuing National Environmental Policy Act.

Preston Wright: On a Notice of Realty Action, which was published, that invites any interested person to comment, anybody is invited to comment on Notice of Realty Action and those are in the paper. It's part of the legal notification process and it's part of our civic responsibility, if we're concerned, to watch the legal notices. And incidently, most of the stuff we want to do, ends up being EA's.

Cliff Gardner: On your particular operation.

Preston Wright: Yeah.

Cliff Gardner: And that's very true. Certain individuals within our society.

Preston Wright: That's true. People who don't go around calling everybody else liars and cheats all the time in a suit from the very start.

Jim Collard: I think it should be pointed out, the Forest Service tends to EIS a little faster than the BLM.

Gene Gustin: What was that comment?

Jim Collard: The BLM will do an EA where the Forest Service will require an EIS. I find it unfathomable that anybody would require an EIS on building a fence - under any circumstances.

Cliff Gardner: Mr. Chairman, I would request Mr. Wright's comments be included in the minutes verbatim, and that my comment would be: that certain individuals that require or demand that the Federal Government comply with law are suppressed in their activities while others, who appease, are not. I would like that entered also, verbatim.

Gene Gustin: Ok, and with that I'm...we're getting off the subject a little.

Brad Roberts would request that PLUAC wait for an EIS or EA on future presentations before making an approval or disapproval, so that PLUAC would have the whole story. <continue>

COMMENTS BY THE GENERAL PUBLIC:

Chairman Gustin called for comments from the general public. Cliff Gardner requested to be put on the next agenda to present to the PLUAC Board a request for a moratorium on elk transplants, introductions, and pioneering elk, until the "Hage" case is decided.

RUBY VALLEY RANCHER CLIFF GARDNER:

Mr. Gardner presented the Board with some facts, data and examples supporting the need for evidentiary hearings. (Including a Forest Service study, the Sharp experimental "demonstration project", and a University of New Mexico study on the Glen Ranch) Mr. Gardner then handed out copies of proposed changes to Chapter 321 of the NRS Code. He is asking that PLUAC members review this and bring back for action at the next meeting. Mr. Gardner then presented the Board with a request for a \$5,000.00 grant to study the effects of elk on riparian zones, aspen regeneration and forage utilization on Table Mountain and Duck Creek. The Board then viewed slides showing Harrison Pass and Duck Creek and the usage by elk. Mr. Gardner is requesting the \$5,000.00 for Mr. Bob Swaggert, from Western Range Consults out of Winnemucca, to do the study. Mr. Gardner is asking for support from PLUAC to endorse his study so that he may give a presentation to the Elko County Commissioners. Comments and discussion followed between Board Members, public and Mr. Gardner. Mr. Gustin then called for comments from the Board: Candace Wines gave supporting arguments for the study. Bob Colon would support looking for existing studies, and not spending additional monies for another study. Jim Collard wondered about the possibility of getting joint funding for a study. Preston Wright felt Mr. Gardner should give his presentation to the County Commissioners. Candace Wines motioned that PLUAC recommend the County Commissioners allow Mr. Gardner some time to give a presentation on his request. Preston Wright seconds. Further discussion followed. Motion passes 5-0. <action> AT THE REQUEST OF CLIFF GARDNER AND THE APPROVAL OF CHAIRMAN GUSTIN, ALL OF CLIFF GARDNER'S PRESENTATION AND DISCUSSIONS WILL BE TRANSCRIBED VERBATIM. (This will be added later as an addendum.)

EUREKA COUNTY PUBLIC LAND MANAGEMENT STUDIES:

Discussion on the two resolutions. The first resolution has been passed up to the County Commissioner's, but has not been assigned to agenda. The second resolution, A Resolution of the Board of Elko County Commissioners Requesting the House and Senate Appropriations Committees to Include Certain Language in the Report to Accompany the FY 97 Interior Appropriations Bill, has been passed to Ed Presley for some recommendations. Ed Presley has not completed this yet and was not present to update the Board. <continue>

NOTE: Chairman Gustin asked Commissioner Hackworth to make sure the recently approved Land Exchange Policy, passed up to the Commissioners, by PLUAC, would be reviewed and added to the County's Policy. PLUAC does not want this issue to be overlooked.

U.S. FOREST SERVICE DRAFT 1995 RPA PROGRAM:

Ag Subcommittee is working on a draft for PLUAC to review. Gene Gustin discussed the Wyoming law suit challenging the new regulations in use by the BLM. Gene Gustin will get copies of this decision for Board members. <continue>

U.S. VERSUS CLIFF GARDNER LAWSUIT:

Discussion on the request by Ed Presley for a \$50,000.00 grant to support the Gardner lawsuit. All members received a copy of the original complaint filed. Candace Wines supported the expenditure of public funds for this use. Bob Colon felt it is was a private lawsuit, not a county problem. Jim Collard stated it would be ill-advised to use County

monies for this lawsuit. Jim Collard asked that the DA look into the merits of the lawsuit and bring the results back to PLUAC with his recommendations. Preston Wright suggested Mr. Ed Presley take his request to the County Commissioners directly. Gene Gustin concurred with Preston and suggested Mr. Presley take his presentation to the Commissioners. Preston Wright motioned PLUAC recommend the Elko County Commissioners allow Mr. Presley the opportunity to present his request for a grant, however, it is noted PLUAC did not take a position on this matter, either pro or con. Candace Wines seconds. Motion passes 4-0-1 with Jim Collard abstaining. <action>

Break from 9:15 pm to 9:25 pm (PST).

LAHONTIAN CUTTHROAT TROUT:

Bob Colon reviewed the letter from State Supervisor, Carlos H. Mendoza and the response answers to nineteen questions asked by PLUAC. Bob also reviewed the request for a "participation team" to be made up of various departments, agencies, and interested individuals. Discussion amongst the Board followed. Bob will provide names and agencies that will participate by the next meeting. <continue>

BLM LAND ACQUISITION PROCESS:

Brief discussion. <drop from agenda>

BLM-BARRICK GOLDSTRIKE MINES LAND EXCHANGE:

The Board determined the net tax loss was around \$500.00 for this land exchange. <drop>

NDOW - WETLAND CONSERVATION PLAN:

Lou Moore reported she was still waiting for information. She will pass on as soon as she receives. <continue>

LINDA MASTERS RANGELAND MONITORING LETTER:

At the request of Cliff Gardner, this was added to the agenda. Mr. Gardner felt he had covered this under his presentation of the need for evidentiary hearings. <drop>

CORRESPONDENCE, ACKNOWLEDGEMENTS & NOTICES:

- Bureau of Land Management, Elko District Office, letters relating to grazing permits and grazing authorizations: Dennis Lehmann; Barnes Ranches, Inc.; Ed & Linda Robertson; Reed Ranching Company. Gene Gustin will provide copies of the decision on Public Lands Council vs. Dept. of Interior on Rangeland Reform. Assigned to Ag Subcommittee for monitoring.

- Acknowledged Notice of Full Force and Effect Decision to Gather & Remove Wild Horses from the Rock Creek Herd area. Assigned to Ag Subcommittee.

- Acknowledged receipt of letter to the Elko County Commission from Mr. John Bernt, Jarbidge, Nevada, regarding his mining claims. Jim Collard updated the Board on Mr. Bernt's problem. Jim Collard motioned PLUAC ask the County Commissioners formerly request an extension of time on the John Bernt matter with regards to his mining claims. Bob Colon seconds. Motion passes 5-0. Chairman Gustin asked Commissioner Hackworth if John Bernt could be put on the next agenda. Commissioner Hackworth said he would check on it.
<action>

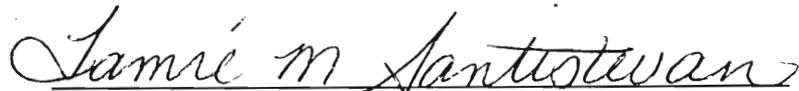
- Acknowledged receipt of U.S. Army Corps of Engineers Public Notice. Assigned to Ag Subcommittee.
- Received Legislative Committee on Public Lands minutes from the March 8, 1996 meeting in Winnemucca, NV.
- Received notice from Advisory Board on Natural Resources of Elko Meeting scheduled for July 18-19, 1996. Chairman Gustin recommended PLUAC members attend if at all possible.
- Acknowledged receipt of: SWEAT CO newsletter 6/23/96; Property Rights Update 7/96; Public Land News 6/27/96.

COMMITTEE REPORTS:

None taken at this time.

Next regular meeting scheduled for Tuesday, July 23, 1996 at 7:00 pm (PST).

Meeting adjourned at 10:00 pm (PST).


Tamré M. Santistevan, Minutes Clerk

Verbatim transcription of requested items to be added to minutes (June 25, 1996 PLUAC Meeting) -

Cliff Gardner: I have two questions for Larry. At the time of acquisition, biologists were taking temperatures of the Bruneau River and after the Coffee Pot fire, of course it burned the majority of the vegetation at the range. Was there any monitoring of the water temperature after acquisition, after the fire?

Larry Barngrover: No.

Cliff Gardner: The second question is..

Larry Barngrover: There may have been people who took a temperature, but there wasn't any monitoring

Cliff Gardner: Well it seems to be a contrast, because we're always told the removal of willows and vegetation by livestock increases water temperatures and we 'gotta get the livestock off.

Larry Barngrover: That's right.

Cliff Gardner: And then the information that's coming forward tonight we know that the majority of that vegetation was burned on that range from Miller Creek out to the Mink place and yet your general statement is the fisheries are improving, I'm wondering why the..

Larry Barngrover: Because your statement is not right. The majority of the vegetation from the Miller place on down to the Mink ranch was not burned. There was a swath up towards the upper end that was burned, but when you came on down that was pretty much unburned.

Cliff Gardner: The other question I have is, I understand that under federal law there is to be no loss of wetlands and that the wetlands legislation and the enforcement applies to agencies even more than it does to private individuals. Hilltop Field and all the various little meadows that were spotted all the way from Miller creek to the Mink place are now not being irrigated. How does that play in that the federal government Core of Engineers is prosecuting individuals for loss of wetlands and yet, in this particular instance that's not occurring?

Larry Barngrover: I don't know, you'd have to ask them.

Candace Wines: Can I just ask one more question on the Elk thing before we go on?

Gene Gustin: Sure.

Candace Wines: To anybody involved in the Bruneau River, I guess my question is, why wasn't that path taken with the Wells, the Wells District Elk Management Plan? None of the AUM's for the Wells District.....

Gene Gustin: Can I have some order?

Candace Wines: My question is, the Bruneau River, as people have pointed out, Kent Howard was paid for those AUM's to run elk. The Wells resource district, that was never done. Why was a different path taken for the Wells Resource District vs. the Bruneau River?

Larry Barngrover: Well I don't know exactly how to answer this, it was different circumstances, different situation. We had an opportunity to get into a very specific well confined project, The Bruneau River project. We simply haven't seemed to have that opportunity within the Wells Area. There's been some kind of opportunities but nothing that's come together in that way. In Wells the analysis, if you reviewed it, I'm sure, the analysis up there essentially says that there is forage that is available for elk at the levels that have been identified and agreed upon. And, it's just different circumstances and different opportunities.

Candace Wines: Just for the record, I would say that the additional forage that is available should go to those people that have suspended non-use AUM's.

Larry Barngrover: We think they should go to elk.

