

**CARSON WATER SUBCONSERVANCY DISTRICT
LEGISLATIVE COMMITTEE
October 16, 2017, 1:00 p.m.**

DRAFT MINUTES

Committee members present:

Brad Bonkowski, Carson City
Doug Johnson, Douglas County
Chuck Roberts, Lyon County
Ernie Schank, Churchill County
Steve Thaler, Douglas County

Staff present:

Shane Fryer, Watershed Program Specialist
Brenda Hunt, Watershed Program Manager
Ed James, General Manager
Toni Leffler, Administrative Assistant/Secretary to the Board
Louise Thompson, AmeriCorps Member

Others present:

Charles Donohue, Nevada State Lands
Tyler Minor, Minor Ranch
Austin Osborne, Storey County (by teleconference)
Elyse Quick, Nevada State Lands
Rich Wilkinson, CVCD

Brad Bonkowski called the meeting to order at 1:05 a.m. at the Carson Water Subconservancy District Conference Room, 777 East William Street, #110, Carson City, Nevada. Roll call was taken, and a quorum of the Legislative Committee was present. There was no public comment.

Item #4 – For Possible Action: Approval of the Legislative Committee minutes from January 31, 2017. Ed James noted that Austin Osborne’s name should be under “others present” instead of “Directors present” on the January 31 meeting minutes. *Mr. Schank made the motion to approve the minutes from January 31, 2017, as amended. The motion was seconded by Mr. Thaler and unanimously approved, with Mr. Bonkowski abstaining for not being present at that meeting.*

Item #5 – For Possible Action: Discussion regarding ownership, operation, and maintenance of the Carson River. After introductions, Mr. James explained that after the last flooding, questions arose about diversion repairs, ownership, and maintenance. The challenges of securing funding to help with repairs highlighted the need to develop a process to be prepared for when the next flood hits and identify who would be involved.

Rich Wilkinson noted that in future flood event, Carson Valley Conservation District (CVCD) would like to be eligible for FEMA funds. There are two issues to be addressed: ownership

issue and maintenance issue. Mr. James explained that to be eligible for FEMA, a diversion/flood control structure must be a public structure. The State's ownership of the river to the high-water mark was established in the 1970s, but the State doesn't claim ownership of structures and neither does CWSD. Perhaps the counties can create flood districts or CWSD can serve as a coordinating agency. It would be good to redesign some of the diversion structures to hold up better in future events.

Steve Thaler noted that the very structures that help with the mitigation by distributing the flood water are the ones that are being destroyed. Doug Johnson asked whether there is a different funding source available to be able to take care of this issue if the diversion structures were called something else.

Charlie Donohue responded that the Carson River is not like Truckee River with storage reservoirs and the Truckee River Operating Agreement (TROA), but the Carson River is a dynamic river under the Alpine Decree. In the 1960s, the Army Corps came to help with the Carson River, but the work they did straightening sections of the river created problems downstream. The mechanism is in the Nevada Revised Statutes (NRS) for the communities to address the structures. NRS 322.1007 – Performance of work below high-water mark of navigable river - allows owners of diversion structures deemed as danger to life or property to do maintenance with State Lands' permission. Presently, State Lands does not recognize the diversion structures in the Carson River.

Mr. Schank noted that in Fallon the situation is different being downstream of Lahontan Reservoir. Mr. Schank asked whether the State would entertain a procedure for keeping the channel maintained without a lot of permitting process if TCID made the request. Mr. Donohue responded that TCID received an Emergency Right of Entry Permit within hours of making the request to help prevent flooding during the January and February flooding events. He is under the impression that it is the responsibility of TCID to clean and maintain channel clearing. Structures must be authorized and approved by State Lands. Mr. Wilkinson mentioned that the CVCD has an ongoing permit and is only required to provide a Notice of Intent to invoke that permit. Sediment and debris cause problems at choke points.

Brenda Hunt noted that in both the Stewardship Plan and the Floodplain Management Plan suggested actions include investigating the feasibility of eventually replacing diversion structures to allow for sediment passage, etc. She suggested listing the structures, prioritizing them, figuring how to fund them, and getting authorization to improve them. The structures are not eligible for EQUIP funds through the FSA because they don't sit on privately owned property.

Mr. Donohue noted that Question 1 (Q1) money for the Carson River is the next agenda item but could be a funding source for these projects.

Mr. Bonkowski, as Chair of the meeting, suggested incorporating Item #6 in the discussion to address both Items #5 and #6 concurrently.

Mr. James noted that there are several points to discuss including diversion structures and river capacity. River clearance fall under Clearing & Snagging Funds. The structures have historically been maintained by farmers/ranchers.

Ms. Hunt explained that she had gone to the EPA website and found a new funding source called the Healthy Watershed Consortium Grant Program for up to \$3 million with applications due 2/1/2018. There is only a 25% match requirement.

Mr. Donohue explained that in 2002, \$10 million of Q1 funds were set aside for the Carson River. The agreement between the Carson River counties was for \$2.5 million to be available for each county's projects. There is still \$3.4 million authorized for the Carson River. The program was extended from 2019 to 2024, but the Nevada State Treasurer's Office must sell bonds. There may be an opportunity next Legislative session to get some Q1 funds but probably not more than \$5-6 million. Some activities prior to Q1 passage may be eligible for match. It's good to have a plan in place. Mr. Donohue noted that we would have to work with St. Lands Administrator. Those funds come through the State's Capital Improvements Program.

Mr. Schank asked Mr. James if there needs to be a new agreement with the counties for the \$2.5 million each. Mr. James responded that if counties did not use all the funds, the unused funds would go to other counties. The funds could be used for land acquisitions, etc., but require match. Mr. James will research whether there was a formal agreement with counties in the beginning.

Mr. Thaler asked how many structures are part of the discussion. Mr. James responded that he does not know. We may need to do an inventory of all the structures and to determine ownership and who performs the maintenance.

Mr. Roberts asked if all the diversion structures were gone, then what would be the State's necessity for structures on the Carson River above Lahontan Dam. Mr. Donohue responded that the river is an altered system because of the diversions so it is hard to say what the river would be like without the structures. Mr. Roberts explained that he was trying to determine whether there is any value in the structures to the State. Mr. Donahue responded that the structures have little to no value to the state.

Mr. Schank noted that, according to the Alpine Decree, water rights certification requires a diversion for delivery of the water and asked whether that plays any part in determining value to the State. Mr. James responded that there is a balancing act between the natural river and meeting agricultural water needs.

Mr. Bonkowski recapped the action items from the discussion:

- recognized the need to prioritize Q1 projects,
- determine the immediate next steps,

- bring in the larger group, and
- begin creating steps on how to move forward.

Ms. Hunt noted that we need to look at flood repair preparation in big picture way because if we only deal with it in reaches, the repairs could be a band aid fix which causes problems elsewhere. Mr. James suggested that structures be identified on levels related to disaster, maintenance, and reconstruction.

Mr. Roberts noted that we need marketing strategy to convince the taxpayers to fund river maintenance and repairs. There are big political issues involved. Mr. Schank agreed that the discussion needs to be enlarged and that ownership needs to be determined to help the counties. There is also a need to address weeds. Snagging and clearing efforts have been successful and positive and might help protect structures.

Mr. Bonkowski suggested a strategic planning session to discuss these issues on a larger basis. There is a lot of information going out to stakeholders. Mr. Roberts suggested encouraging easier access to mine material in the river.

Mr. Schank noted that it is the responsibility of this committee to recommend further action. Direct staff to identify stakeholders. Ms. Hunt requested everyone's structure inventories.

Director Bonkowski made the motion to direct staff to put together all the comments from this meeting as directives and forward them to the Board as recommendations from the Legislative Committee. They are:

- *prioritize Q1 projects,*
- *regional approach toward a flood repair process instead of by river segment or county,*
- *determine the immediate next steps,*
- *identify stakeholders,*
- *gather inventories of grade control/diversion structures,*
- *hold a strategic planning session to bring in the larger group of stakeholders,*
- *identify funding sources for making after-flooding repairs, and*
- *create steps for a process to address repairs after future flooding.*

Director Thaler seconded the motion which was unanimously approved by the Legislative Committee.

Item #6 – For Possible Action: Discussion regarding State Lands' Question 1 Program funding. *Director Schank made the motion for the Legislative Committee to recommend that the Board direct staff to put a letter together to the counties for feedback on projects and potential projects, a summary of each, and when they could be shovel ready. The motion was seconded by Director Roberts and unanimously approved by the Legislative Committee.*

Item #7 - Public Comment – Public comment was incorporation throughout the discussion.

There being no further business to come before the Legislative Committee, Director Roberts made the motion and the meeting was adjourned at 2:22 p.m.

Respectfully submitted,

Toni Leffler
Secretary

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