



# AGENDA

## BOARD OF SUPERVISORS, COUNTY OF MONO STATE OF CALIFORNIA

Regular Meetings: The First, Second, and Third Tuesday of each month. Location of meeting is specified just below.

MEETING LOCATION Board Chambers, 2nd Fl., County Courthouse, 278 Main St., Bridgeport, CA 93517

### Regular Meeting January 7, 2014

---

**TELECONFERENCE LOCATIONS:** 1) First and Second Meetings of Each Month: Mammoth Lakes CAO Conference Room, 3rd Floor Sierra Center Mall, 452 Old Mammoth Road, Mammoth Lakes, California, 93546; 2) Third Meeting of Each Month: Mono County Courthouse, 278 Main, 2nd Floor Board Chambers, Bridgeport, CA 93517. Board Members may participate from a teleconference location. Note: Members of the public may attend the open-session portion of the meeting from a teleconference location, and may address the board during any one of the opportunities provided on the agenda under Opportunity for the Public to Address the Board.

**NOTE:** In compliance with the Americans with Disabilities Act if you need special assistance to participate in this meeting, please contact the Clerk of the Board at (760) 932-5534. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (See 42 USCS 12132, 28CFR 35.130).

Full agenda packets are available for the public to review in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517), and in the County Offices located in Minaret Mall, 2nd Floor (437 Old Mammoth Road, Mammoth Lakes CA 93546). Any writing distributed less than 72 hours prior to the meeting will be available for public inspection in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517). **ON THE WEB:** You can view the upcoming agenda at [www.monocounty.ca.gov](http://www.monocounty.ca.gov) . If you would like to receive an automatic copy of this agenda by email, please send your request to Lynda Roberts, Clerk of the Board: [lroberts@mono.ca.gov](mailto:lroberts@mono.ca.gov) .

***UNLESS OTHERWISE SPECIFIED BY TIME, ITEMS SCHEDULED FOR EITHER THE MORNING OR AFTERNOON SESSIONS WILL BE HEARD ACCORDING TO AVAILABLE TIME AND PRESENCE OF INTERESTED PERSONS. PUBLIC MAY COMMENT ON AGENDA ITEMS AT THE TIME THE ITEM IS HEARD.***

9:00 AM Call meeting to Order

Pledge of Allegiance

**1. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

**2. APPROVAL OF MINUTES**

**A. Board Minutes**

Approve minutes of the Regular Meeting held on December 17, 2013.

**3. PRESENTATIONS**

**A. Election of New Board Chair**

Departments: Board of Supervisors

5 minutes

(Outgoing Board Chair) - The outgoing Board Chair will call for nominations to elect the Chair of the Board for 2014.

**Recommended Action:** Elect the new Chair of the Board for 2014.

**Fiscal Impact:** None.

**B. Election of New Vice-Chair to the Board**

Departments: Board of Supervisors

5 minutes

(Newly Elected Board Chair) - The newly-elected Board Chair will call for nominations to elect the Vice Chair of the Board for 2014.

**Recommended Action:** Elect the new Vice Chair of the Board for 2014.

**Fiscal Impact:** None.

**C. Presentation to Outgoing Chairman Hunt**

Departments: Board of Supervisors

10 minutes

(Board Chair) - Presentation to Chairman Hunt by newly elected Board Chair honoring Supervisor Hunt's service to the Board in 2013.

**Recommended Action:** None.

**Fiscal Impact:** None.

**4. BOARD MEMBER REPORTS**

The Board may, if time permits, take Board Reports at any time during the meeting and not at a specific time.

**5. COUNTY ADMINISTRATIVE OFFICE**

CAO Report regarding Board Assignments

Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

**6. DEPARTMENT/COMMISSION REPORTS**

**7. CONSENT AGENDA**

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

**A. 2014 Mono County Legislative Platform**

Departments: CAO

Final review and potential adoption of the proposed 2014 Mono County Legislative Platform.

**Recommended Action:** Adopt 2014 Mono County Legislative Platform and direct staff to distribute to Mono County's state and federal legislators as well as to the California State Association of Counties, the Rural Counties Representatives of California and begin scheduling visits with legislators for Board members.

**Fiscal Impact:** None.

**B. November 2013 Transaction Report**

Departments: Finance

Treasury Transactions for the month of November 2013.

**Recommended Action:** None. Informational only.

**Fiscal Impact:** None.

**8. CORRESPONDENCE RECEIVED (INFORMATIONAL)**

All items listed are located in the Office of the Clerk of the Board, and are available for review.

**A. California Fish and Game Commission**

Notices of Findings published in the California Regulatory Notice Register on December 27, 2013, pertaining to: 1) Townsend's big-eared bat (*Corynorhinus townsendii*); 2) Northern spotted owl; 3) American pika.

**B. Mono City Fire Protection District**

Letter dated 12/14/13 from the Mono City Fire Protection District pledging a maximum of \$25,000 for use exclusively in calendar year 2014 for work performed on the Mono City Emergency Road.

\*\*\*\*\*

**9. REGULAR AGENDA - MORNING**

**A. Letter to State Water Resources Control Board regarding Petitions for Temporary Transfer of Water Rights**

Departments: County Counsel

15 minutes (10 minute presentation; 5 minute discussion)

(Stacey Simon) - Letter to California State Water Resources Control Board regarding Petitions for Temporary Transfer and Change to water rights licenses 6000 and 9407 filed by the Walker River Irrigation District related to its stored water leasing program.

**Recommended Action:** Approve and authorize Chair to sign letter.

**Fiscal Impact:** None.

**B. Inflationary Increase to Service Fee Floors for D&S Waste and Mammoth**

Departments: Solid Waste

15 minutes

(Tony Dublino) - Amendment to Franchise Agreements with D&S Waste and Mammoth Disposal, reflecting inflationary increase to floor rates.

**Recommended Action:** Consider and possibly approve amendment to Franchise Agreements with D&S Waste Removal, Inc. and Mammoth Disposal, Inc. to reflect inflationary adjustments to service fee floor rates for waste collection services.

**Fiscal Impact:** Minor increases in franchise fees (approximately \$500 annually) paid to the County.

**C. Mono County Board Rules of Procedures**

Departments: CAO, County Counsel, Clerk of the Board

30 minutes (10 minute presentation; 20 minute discussion)

(Jim Leddy) - The Board's current rules were adopted on February 6, 1978. Since that time, some changes in law and practice have occurred, one of which is addressed through a policy regarding items generated from outside the County and incorporated through Resolution No. 00-34 adopted May 2, 2000. Both of these documents have been included in your packet for reference. Once adopted, the new rules will supersede and replace all rules of procedure previously adopted by the Board. Attached for the Board's consideration is a copy of the draft Mono County Board Rules of Procedures. The Rules as drafted are consistent with law and generally reflect current practices of the Board. They were based substantially on Sonoma County's Board Rules.

**Recommended Action:** Discuss draft Mono County Board Rules of Procedures and provide direction to staff. Staff recommends these rules be reviewed annually and adopted in January of each year as well as used during new Board member orientation to set clear expectations and define roles.

**Fiscal Impact:** None.

**D. Board of Supervisors' Meetings--Change in Location of Third Regular Monthly Meeting**

Departments: Clerk of the Board

15 minutes (5 minute presentation; 10 minute discussion)



(Lynda Roberts) - Location of the Board of Supervisors' third regular meeting of each month.

**Recommended Action:** Review and discuss 1) changing the location of the Board's third regular meeting each month from Bridgeport to the Town of Mammoth Lakes; and 2) making this change for an indefinite period of time rather than annually. Potentially adopt Resolution R14-... that will change the location of the third regular board meeting of each month for a 12-month period; or potentially adopt Resolution R14-... that will change the location of the third regular board meeting of each month for an indefinite period of time. Provide direction to staff as desired.

**Fiscal Impact:** Approximately \$1,200 annually.

**E. Supervisors' Appointments to Boards, Commissions and Committees**

Departments: Clerk of the Board

30 minutes (5 minute presentation; 25 minute discussion)

(Lynda Roberts) - Mono County Supervisors serve on various boards, commissions, and committees for one-year terms that expire on December 31st. Each January, the Board of Supervisors makes appointments for the upcoming year.

**Recommended Action:** Appoint Supervisors to boards, commissions and committees for 2014.

**Fiscal Impact:** None.

**10. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

**11. CLOSED SESSION**

**A. Closed Session--Human Resources**

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph, John Vallejo, Leslie Chapman, Bill Van Lente and Jim Leddy. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

**B. Closed Session - Conference with Legal Counsel**

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. Paragraph (1) of subdivision (d) of Government Code section 54956.9. Name of case: Gleason v. Secretary of State et. al.

**C. Closed Session - Public Employee Performance Evaluation: County Administrator**

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Administrator.

**REGULAR AFTERNOON SESSION COMMENCES AT 2:00 P.M.**

**12. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

**13. REGULAR AGENDA - AFTERNOON**

**A. Communications Chapter - General Plan Update**

Departments: Information Technology; Community Development  
45 minutes (15 minute presentation; 30 minute discussion)

(Nate Greenberg; Scott Burns) - Provide a workshop that reviews the Goals and Objectives contained within the draft language of the new General Plan Telecommunications Chapter.

**Recommended Action:** Informational item only. Provide direction to staff regarding changes to language or next steps on incorporating into General Plan.

**Fiscal Impact:** None.

**ADJOURN**



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**TIME REQUIRED**

**SUBJECT** Board Minutes

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Approve minutes of the Regular Meeting held on December 17, 2013.

### RECOMMENDED ACTION:

### FISCAL IMPACT:

**CONTACT NAME:** Lynda Roberts

**PHONE/EMAIL:** x5538 / lroberts@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

[12-7-13 Draft mins](#)

#### History

Time	Who	Approval
12/26/2013 9:22 AM	County Administrative Office	Yes
12/30/2013 8:54 AM	County Counsel	Yes
12/30/2013 3:10 PM	Finance	Yes



DRAFT MEETING MINUTES  
BOARD OF SUPERVISORS, COUNTY OF MONO  
STATE OF CALIFORNIA

Regular Meetings: The First, Second, and Third Tuesday of each month. Location of meeting is specified just below.

MEETING LOCATION Mammoth Lakes BOS Meeting Room, 3rd Fl. Sierra Center Mall, Suite 307,  
452 Old Mammoth Rd., Mammoth Lakes, CA 93546

**Regular Meeting  
December 17, 2013**

Flash Drive	Portable Recorder
Minute Orders	M13-257 to M13-264
Resolutions	R13-109 to R13-114
Ordinance	Ord13-05 – NOT USED

- 9:00 AM Meeting Called to Order by Supervisor Hunt, Chair
- Supervisors present: Fesko, Hunt, Johnston, and Stump
  - Supervisors absent: Alpers

Pledge of Allegiance led by Marshall Rudolph, County Counsel

Break: 10:10 a.m.  
Reconvened: 10:25 a.m.  
Closed Session: 12:25 p.m.  
Reconvened: 2:13 p.m.  
Adjourned: 3:20 p.m.

1. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

- Rick Vahl, General Manager of Mammoth Disposal, introduced himself to the Board.
- Gary Nelson, Mono City: He is still working to get plots at the Mono Lake Cemetery. Nelson thanked Jim Leddy, CAO, and Vianey White, Public Works, for assisting with this issue.

2. APPROVAL OF MINUTES

A. Board Minutes

**Action:** Approve minutes of the Regular Meeting held on December 3, 2013, as corrected.

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

**Stump moved; Fesko seconded**  
**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**  
**M13-257**

- Supervisor Johnston, Item #9c, Update on County Regional Transportation Improvement Program, Johnston's comment bullet point #1: Change "T" to transportation enhancement.

B. Board Minutes

**Action:** Approve minutes of the Regular Meeting held on December 10, 2013.  
**Johnston moved; Stump seconded**  
**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**  
**M13-258**

3. PRESENTATIONS - NONE

4. BOARD MEMBER REPORTS

**Supervisor Alpers**

1. Absent

**Supervisor Fesko**

1. Attended the South County potluck on December 11; it was well attended. Thanked Robin Roberts for acting as emcee and thanked Department Heads for their financial donations that helped fund the parties. Also thanked Teresa Neely, Sarah Messerlian, and Stacie Klemm for organizing the parties. Thanked staff members for bringing food.
2. Special thanks to Wendy Sugimura for providing liaison services to RPACs, and for dealing with Bodie Road issues. Also thanked Gerry Le Francois for his work with the Antelope Valley RPAC.
3. During the holiday potlucks, several people received years of service awards. Fesko acknowledged these employees for the record:
  - Five Year Awards: Jack Anderson, Joe Blanchard, David Campbell, Cory Custer, Matt Davis, Tony Dublino, Megan Foster, Alex Johnson, Tom Perry, Robin Roberts, Colin Tams, Carrie Taylor
  - Ten Year Awards: Nubia Dunn, Michael Geary, Scott Minder, Teresa Neely, Angelle Nolan, Anita Reeve
  - Fifteen Year Awards: John Almeida, Tim Minder, Brent Peterson, Rob Weber

**Supervisor Hunt**

1. Attended the Great Basin Unified Air Pollution Control District meeting on December 11. They adopted a revised maintenance plan for Coso Junction. GBUAPCD has been working with Perry Motors in Bishop and purchased vehicles at discount rates due to volume. The County may want to consider this option.
2. Hunt was appointed yesterday to serve for six months on the Yosemite Gateway Partners board.
3. Thanked those who organized the potluck parties.
4. Thanked the Board for doing a lot of good things this year and working well together. This is his last meeting as chair.

**Supervisor Johnston**

1. Attended both holiday potluck parties; thanked Robin Roberts. The parties were well attended and people enjoyed the games.
2. Attended the Great Basin Unified Air Pollution Control District meeting. They received \$10 million from DWP for the cost of Keeler Dunes mitigation, and discussed pending lawsuits. Some of the new DWP commissioners may work towards a settlement rather than pursue litigation.

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

3. Attended the IMACA meeting. They reviewed the budget and authorized grant applications.
4. Will be attending a biomass meeting and making a presentation at the Lions Club meeting.
5. Will be attending the ESCOG meeting in Bishop on Friday.
6. Thanked staff and fellow board members for a great year.

**Supervisor Stump**

1. Concurred with Fesko's comments about the potluck parties.
2. Attended the Tri-Valley Water Commission meeting; there are pending ground water disputes.
3. A Crowley Lake resident has purchased a structure and is remodeling it for employee housing. Thanked Louis Molina for expediting the permit process so this person could drill a well.
4. Would like to adjourn the meeting in memory of Billy Anderson who was a full-time and volunteer member of the Mammoth Fire Department; Anderson was also a safety officer on Mammoth Mountain. Thanked the Sheriff for bringing inmates to Mammoth to help prepare for the memorial service.
5. Thanked fellow board members for the past year and their willingness to compromise and take incremental steps to resolve issues and make decisions.

**5. COUNTY ADMINISTRATIVE OFFICE**

Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

**Jim Leddy, CAO:**

1. Attended both holiday parties. Employees appreciated comments from the Board.
2. Attended a joint Rotary party; it was a good evening. This is a good community-based group.
3. The June Lake tree lighting ceremony was last Friday. Bill Van Lente has joined the June Lake ski patrol.
4. House Resolution 1241 (MMSA land exchange) has passed.
5. Supervisor Alpers is on his way back from an appointment in Sacramento.
6. Leddy will be meeting with Inyo County tomorrow to discuss shared services and potential cost savings. Other staff members attending include Nate Greenberg, Kathy Peterson, Robin Roberts, Lynda Salcido, Marshall Rudolph, Leslie Chapman, Jeff Walters, and Scott Burns.
7. Thanked the Board for the last six months; he is glad he joined the organization. Acknowledged Marshall Rudolph and Leslie Chapman for their support; acknowledged Bill Van Lent, Sarah Messerlian, Teresa Neely, and Stacie Klemm for their assistance. Leddy is looking forward to a great new year.

**6. DEPARTMENT/COMMISSION REPORTS**

- o Rob De Forrest gave an EMS update: 1) Intends to forego the purchase of a new ambulance unit at this time, which will save about \$77,000; an old unit will be used for parts. 2) Four vacant EMT positions have now been filled; this will reduce overtime costs. 3) The Department has 10 reserve employees starting in January to work the overtime shifts, which will save approximately \$28,000 per month. 4) Thanked Lynda Salcido; she is the "best boss in the world."

**7. CONSENT AGENDA**

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

A. County Medical Services Program Resolution

Departments: Public Health

Proposed resolution #R13-\_\_\_\_, ratifying Resolution 2013-1 of the County Medical Services Program Governing Board and the provisions set forth in Welfare and Institutions Code Section 17600.50(a).

**Action:** Adopt Resolution #R13-109, ratifying Resolution 2013-1 of the County Medical Services Program Governing Board and the provisions set forth in Welfare and Institutions Code Section 17600.50(a).

**Johnston moved; Fesko seconded**

**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**

**R13-109**

B. HIV/AIDS Surveillance Contract Agreement #13-20142

Departments: Health Department

Proposed contract with the Office of AIDS pertaining to HIV/AIDS Surveillance Agreement Number 13-20142.

**Action:** Approve County entry into proposed contract and authorize the Chairman's signature on the contract documents for the 3-year period of July 1, 2013-June 30, 2016. Additionally, provide authorization for the Public Health Director to sign amendments that may occur during the 3-year contract period.

**Johnston moved; Fesko seconded**

**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**

**M13-259**

C. HIV Care Program Contract Agreement #13-20060

Departments: Health Department

Proposed contract with the Office of AIDS pertaining to HIV Care Program Contract Agreement Number 13-20060.

**Action:** Approve County entry into proposed contract and authorize the Chairman's signature on the contract documents for the 9-month contract period of July 1, 2013-March 31, 2014.

**Johnston moved; Fesko seconded**

**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**

**M13-260**

D. At will Contract for Kevin Christensen Deputy District Attorney II

Departments: District Attorney

Proposed resolution approving a contract with Kevin Christensen as Deputy District Attorney, and prescribing the compensation, appointment and conditions of said employment.

**Action:** Approve Resolution #R13-110, approving a contract with David

**Note**

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors

Christensen as Deputy District Attorney II, and prescribing the compensation, appointment and conditions of said employment. Authorize the Board Chair to execute said contract on behalf of the County.

**Johnston moved; Fesko seconded**

**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**

**R13-110**

- E. Maternal Child & Adolescent Health Agreement Funding Application FY 2013-2014

Departments: Health Department

Proposed Maternal Child & Adolescent Health (MCAH) Agreement Funding Application for FY 2013-14.

**Action:** Approve and authorize the Chairman's signature on the proposed MCAH Agreement Funding Application (AFA)/Update Form for FY 2013-14.

**Johnston moved; Fesko seconded**

**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**

**M13-261**

- F. Part-Time Temporary Position - Class Coordinator for CSA #1

Departments: Human Resources/Risk Management

Proposed Resolution #R13\_\_\_\_, authorizing the County Administrative Officer to Amend the County of Mono List of Allocated Positions to Reflect the Addition of a Temporary Appointment Community Center Class Coordinator for CSA #1 in the County Administrative Office and to Authorize the County Administrative Officer to Fill Said Allocated Position.

**Action:** Adopt Resolution #R13-111, authorizing the County Administrative Officer to Amend the County of Mono List of Allocated Positions to Reflect the Addition of a Temporary Appointment Community Center Class Coordinator for CSA #1 in the County Administrative Office and to Authorize the County Administrative Officer to Fill Said Allocated Position.

**Johnston moved; Fesko seconded**

**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**

**R13-111**

- G. Part-Time Temporary Position - Wellness Center Associates

Departments: Human Resources and Behavioral Health

Proposed Resolution R-13-\_\_ Authorizing the County Administrative Officer to Amend the County of Mono List of Allocated Positions to Reflect the Addition of up to Three Temporary Appointment Wellness Center Associates in the Behavioral Health Department and to Authorize the County Administrative Officer to Fill Said Allocated Positions.

**Action:** Adopt Resolution R13-112, Authorizing the County Administrative Officer to Amend the County of Mono List of Allocated Positions to Reflect the

**Note**

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors



Addition of up to Three Temporary Appointment Wellness Center Associates in the Behavioral Health Department and to Authorize the County Administrative Officer to Fill Said Allocated Positions.

**Johnston moved; Fesko seconded**

**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**

**R13-112**

## 8. CORRESPONDENCE RECEIVED (INFORMATIONAL)

All items listed are located in the Office of the Clerk of the Board, and are available for review. The Board acknowledged receipt of the correspondence.

### A. Fettes Letter Regarding Sage-Grouse Issue

Correspondence dated 12/5/13 from Ian Fettes in June Lake, CA providing comments after attending the recent 12/3/13 Board meeting and specifically, the Sage-Grouse agenda item.

### B. Town of Mammoth Lakes Request for 4th of July Funding

Letter from Rick Wood, Mayor for the Town of Mammoth Lakes, requesting funding support for the 4th of July celebration and fireworks show.

- Supervisor Johnston: Supports funding of this program by continuing to provide assistance with traffic control, and wants to direct the Town to apply for County funds that are designated for community programs. The Town should consider possible funding sources such as the TBID, and Measures R and U.
- The Board discussed agendaing this issue for further discussion, or not agendaing and maintaining status quo. The Board decided to not agendaize this item.
- Leslie Chapman, Finance Director, will send a letter inviting the Town to apply for a community grant. Jim Leddy, CAO, will prepare a letter specifying the points raised by the Board, and will agendaize the item in the future if necessary.

## 9. REGULAR AGENDA - MORNING

### A. Allocation and Appointment of Case Manager I/II

Departments: Behavioral Health

15 minutes (5 minute presentation, 10 minute discussion)

(Robin Roberts) - Resolution #R13-\_\_\_\_\_, authorizing the county administrative officer to amend the County of Mono list of allocated positions to reflect the addition of a Case Manager I/II in the Behavioral Health Department and to authorize the County Administrative Officer to fill said allocated position.

**Action:** Adopt Resolution #R13-113, authorizing the county administrative officer to amend the County of Mono list of allocated positions to reflect the addition of a Case Manager I/II in the Behavioral Health Department and to authorize the County Administrative Officer to fill said allocated position.

Robin: request position to hire full time case manager, moving towards case management and less therapy. Increase full case load 55% and case management by 38% since fiscal year. Can bill medical for the position, will pay for about half; no impact on general fund.

#### Note

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

**Johnston moved; Fesko seconded**  
**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**  
**R13-113**

B. Treasury Oversight Committee

Departments: Finance

30 minutes (10 minute presentation, 20 minute discussion)

(Rose Glazier/Leslie Chapman) - Proposed resolution of the Mono County Board of Supervisors Establishing Treasury Oversight Committee.

**Action:** 1. Adopt Resolution #R13-114, establishing Treasury Oversight Committee; 2. Nominate Supervisor Johnston to sit on Treasury Oversight Committee, and nominate Supervisor Stump as alternate member; 3. Confirm/approve the following members to sit on Treasury Oversight Committee: Leslie Chapman, Finance Director, Rose Glazier, Treasurer/Tax Collector, Caty Ecklund, Eastern Sierra Unified School District, Michael Grossblatt, Long Valley Fire District, Olga Gilbert, Antelope Valley Fire District, George Savage, retired CPA, and Brooke Bien, Mammoth Unified School District; 4. Approve mileage reimbursement for board members for quarterly meetings at the IRS rate (currently \$.565 per mile), the estimated cost is \$260.00 quarterly or \$1,040.00 annually.

**Johnston moved; Fesko seconded**  
**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**  
**R13-114 and M13-262**

- Rose Glazier, Treasurer/Tax Collector, reviewed the following:
  - The original committee was dissolved in 2007, so today's action would re-establish a committee.
  - Requesting the Board to nominate a Supervisor to sit on the committee; the prior committee included one of the Supervisors.
  - Confirm or approve the following members: Leslie Chapman, Finance Director, Rose Glazier, Treasurer/Tax Collector, Caty Ecklund, Eastern Sierra Unified School District, Michael Grossblatt, Long Valley Fire District, Olga Gilbert, Antelope Valley Fire District, George Savage, retired CPA, and Brooke Bien, Mammoth Unified School District. The committee can have 3 to 11 members; the committee has proposed will have 8 members.
  - This committee will meet quarterly and is subject to the Brown Act. Meetings will rotate between Bridgeport and Mammoth, and will last approximately 1-2 hours.
  - The purpose of the committee is to help review the investment policy, make suggestions about the treasury pool, and ensure compliance with the investment policy. There is an annual audit requirement that will cost about \$2,000-\$2,500 for outside auditors, and will be paid before funds are apportioned.
  - Depending on the location of meetings, the mileage reimbursement could be approximately \$1,500 per year.
- Supervisor Fesko nominated Supervisor Johnston to sit on the committee. Johnston agreed and suggested the appointment rotate annually. Supervisor Stump volunteered to act as an alternate member.
- Supervisor Johnston: This committee will allow for an additional layer of oversight.

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

### C. Cemetery Update and Budget Amendment

Departments: Finance/Public Works

20 minutes (5 minute presentation, 15 minute discussion)

(Vianey White) - Status updates for all Mono County cemeteries and request for budget amendments to achieve road structure and drainage system improvements at the Bridgeport cemetery.

**Action:** 1. Amend the 2013/2014 CSA #5 budget (fund 735) by increasing Land & Improvements (Object Code 5201) and decreasing contingencies (9101) by \$20,000 (4/5s vote required); 2. Amend the 2013/2014 Cemetery budget (fund 610) by increasing Donations & Contributions (Object code 1705) and Land & Improvements (Object Code 5201) by \$38,000 (4/5s vote required). There is sufficient fund balance available in the Cemetery fund to cover the \$18,000 difference. 3. Accept contribution of \$20,000 from CSA #5 for improvements to the road structure and drainage system at the Bridgeport cemetery.

**Stump moved; Fesko seconded**

**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**

#### **M13-263**

- Vianey White, Public Works, reviewed the following:
  - Hired a consultant to look at unmarked gravesites.
  - Received a preliminary map for Bridgeport and Mono Lake cemeteries, and transferred reserved plots to one map so all family plots are shown on the same map.
  - In the process of contacting owners to confirm records pertaining to plots. Once this is done, she can confirm the Bridgeport and Mono Lake maps.
  - Goals: 1) Finalize maps, determine an appropriate fee, finalize an ordinance and fee resolution. 2) Take this information to the RPACs and Board of Supervisors.
  - Roads and drainage need to be improved, especially at the Bridgeport cemetery; CSA #5 has approved the allocation of \$20,000 for this purpose.
- In response to questions from the Board, White provided the following answers:
  - There are approximately 100 plots available at Mono Lake and enough room for future plots. Gary Nelson is 1 of 8 on the reservation list and will be notified when Public Works starts taking reservations; there are only 3 requests for the Mono Lake cemetery.
  - Currently there are no restrictions if someone needs to be buried right away. The only restriction was in 2007 when the County temporarily stopped taking reservations.
- Leslie Chapman, Finance Director: Some of the \$38,000 of proposed funding may be restricted for Mt. Morrison; she may have to make a budget change at the mid-year budget review.
- Supervisor Fesko: Commended Steve Noble, CSA 5, for setting aside money for Bridgeport.
- An audience member asked about putting a cemetery in Mammoth; Supervisor Hunt said that would be a Town issue.
- Supervisor Johnston: Asked if the County owns Mt. Morrison cemetery.
  - Marshall Rudolph, County Counsel: The County leases the land from BLM, and the lease is about to expire. Some of the land currently included in the lease is on the other side of the road so BLM may not want to include it in a future lease.

#### **Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

- White: Mt. Morrison is 10 acres in size, and there are 50 plots still available so it will be some time before there is a need to expand.
- Fesko: The possibility of critical habitat in Mt. Morrison may affect the ability to expand; a new lease needs to be adjusted accordingly.
- Johnston thanked White for her work on this issue.

D. Contract Amendment with Triad-Holmes Associates for Engineering, Inspection, and Surveying Services

Departments: Public Works - Engineering Division

15 minutes (5 minute presentation, 10 minute discussion)

(Garrett Higerd) - Amendment of existing "as-needed" contract with Triad-Holmes Associates to increase contract limit and remove annual dollar limitations to accommodate engineering and surveying work for the June Lake Streets project.

**Action:** Amend "as-needed" contract with Triad-Holmes Associates for engineering, inspection, and surveying services to increase the contract limit from \$183,000 to \$250,000 for services provided over the next three years and to eliminate the annual dollar limit. Authorize the Public Works Director, in consultation with County Counsel, to administer that contract, including making minor amendments to said contract from time to time as the Public Works Director may deem necessary, provided such amendments do not cause spending on any project to exceed the budgeted authority.

**Johnston moved; Stump seconded**

**Vote: 4 Yes; 0 No; 1 Absent (Alpers)**

**M13-264**

- Garrett Higerd, Public Works: The requested action is an amendment to the as-needed contract so a scope-of-work letter related to the June Lake streets project can be issued. Higerd outlined the process of issuing the RFQ to retain a firm that can provide engineering, inspection and surveying services. The as-needed contract provides flexibility in obtaining consulting help when needed and issuing scope-of-work letters for projects. The June Lake letter is in place for surveying, but the engineering work exceeds the CAO approval limit so requires Board approval to increase the contract limit.
- In response to questions from the Board, Higerd provided the following answers:
  - Funding will come from the STIP funds (State Transportation Improvement Plan).
  - The requested increase is a goodly amount and should cover the cost of upcoming work; the proposal is well within budget.
  - This contractor performed design work for the Lee Vining streets project, which was very successful. This process will also be used for the Chalfant streets project.
  - The June Lake and Chalfant streets projects have aggressive timelines for completion.
- Supervisor Johnston: Glad to see that the County is using a local contractor.
- Supervisor Fesko: Thanked Higerd for the good job he is doing managing a heavy workload.

E. Inflationary Increase to Service Fee Floors for D&S Waste and Mammoth Disposal

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

Departments: Solid Waste Division

15 minutes (5 minute presentation, 10 minute discussion)

(Tony Dublino) - Proposed amendments to Franchise Contracts with D&S Waste and Mammoth Disposal in response to their request for inflationary increases to the service fee floors.

**Action:** Directed staff to re-agendize this item for January 7, 2014, and ask the two waste haulers to present justification for the requested increase.

**No Motion**

- Tony Dublino, Solid Waste Division, presented the following information:
  - Pursuant to their contracts, D&S Waste and Mammoth Disposal are allowed annually to request an increase to the fee floor based on the Consumer Price Index (CPI) and the Producer Price Index (PPI).
  - If the Board approves this request, it will be implemented January 1, 2014.
  - The last increase was implemented in April of 2011. The current request will only apply to this last year and not retroactively to April of 2011.
  - The period used to calculate the increase is this last year.
  - The CPI is base on garbage/trash services, and PPI is for #2 diesel fuel.
  - The Board is not obligated to increase the floor.
- Stacey Simon, Assistant County Counsel, provided background information:
  - The fees in question are a floor set by the County so haulers don't do predatory pricing. Haulers can set whatever rates they want above the floor.
  - Years ago the County recognized the positive benefit of setting a floor. Setting a floor is a common practice.
  - Simon described the various models of pricing. The County's model came into being in response to requests from haulers.
  - The haulers tend to follow the floor rates.
  - Rates set by the Town of Mammoth Lakes are a separate issue.
  - In response to a question about why the garbage business has a floor, Simon explained that the County limits the number of franchisees to two, and requires them to use the landfills, thus protecting the tipping fees.
- Board Discussed Various Aspects Pertaining to the Issue
  - Add clarifying language on the bill so people know the haulers have requested the increase and they don't pertain to the landfill fees.
  - Don't give an automatic increase if it is not warranted. Haulers should justify why they need the increase by providing documentation, which will provide the ability for Supervisors to justify the increase to the public.
  - Find out from the haulers if they only charge the floor rate.
  - The floor rate only stops the potential for predatory pricing; it does not stop a hauler from raising their rates.
  - The requested amount is small.
  - The floor rate tends to be the *de facto* rate charged by the haulers; the rate has been more or less acceptable to the haulers.
  - Arguably the County sets the rates if the haulers are charging only the floor amount.
  - Not a lot of businesses want to become waste haulers in the County, so this arrangement helps limit the costs.
  - By approving the increase, maybe people will understand that the County wants to stay ahead of the actual costs.
  - The floor allows smaller haulers to compete with bigger haulers.
  - Re-agendize for January 7 to allow time to review the requested documentation.

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

- Rick Vahl, Mammoth Disposal: In considering the rate change, they only took a portion of the CPI increase. Mammoth Disposal provides curbside service throughout the County. Increasing the floor allows a smaller hauler to be more competitive.

#### F. U.S. Fish and Wildlife Service (USFWS) Sage Grouse Listing Update and Comment Letter

Departments: Community Development

25 minutes (10 minute presentation, 15 minute discussion)

(Scott Burns, Wendy Sugimura, Stacey Simon) - Receive update on U.S. Fish and Wildlife Service (USFWS) Sage Grouse listing and comment period.

#### **Action:** None

- Scott Burns, Community Development, reviewed the following:
  - This agenda item is in response to the Board's request and the public's request from the December 3<sup>rd</sup> meeting.
  - USFWS granted a 45-day extension to the comment period.
  - Briefly reviewed the staff report: 1) Dr. Paulus continues his research and assessment of habitat around communities. There will be significant cumulative impact to Mono County with various critical habitat designations. 2) The agricultural exemptions need to be clarified. 3) Staff is still assuming strong opposition to the listing. 4) Bi-state planning takes care of the problem without the need to list. 5) Need to provide scientific data to exclude community areas and point out impacts to local governments.
- Stacey Simon, Assistant County Counsel, provided an overview of legal restrictions and the potential impact on County projects and private property.
  - Reviewed the Endangered Species Act and three methods used to protect a species: 1) land acquisition; 2) require federal agencies to consult with Fish and Wildlife Services; 3) prohibition on take of endangered species, which includes habitat modification.
  - Reviewed prosecutions of people/agencies that violated ESA within the last several years (prosecuted after notified and activity continued).
  - People have to know if a species is endangered, and what activity will be considered habitat modification.
  - The uncertainty about knowing is concerning to people.
  - Takings law will most likely become more developed; will probably see more takings litigation under the ESA. The standard for takings is if no activity can be performed on the land because of the listing, this constitutes a taking.
  - Reviewed impact to CEQA; will see incremental changes if the species is listed.
    - Reviewed the CEQA checklist that is used by planners.
    - Reviewed how the broadness of habitat impacts private property/County projects.
    - The burden will be on the property owner to show how a project impacts habitat; eliminating community areas from critical habitat will help mitigate this burden.
    - There will be more scrutiny under CEQA and higher levels of review.
  - Discussed the Section 10 permit obtained by DWP.
    - Their permit only applies to certain lands (i.e. landfill).
    - LADWP worked with Fish and Wildlife to develop a habitat conservation plan to show how their net overall activities are beneficial to the species; in exchange they received an incidental take permit.
    - Simon has requested a copy from LADWP.
    - Mono County can negotiate its own plan with Fish and Wildlife to get a permit.

#### **Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

- Spoke with a deputy county counsel in San Diego about their decision to be proactive by issuing permits at the local level in order to avoid over-federalization. However, a county following a similar practice was sued.
- Wendy Sugimura, Community Development, provided the following information:
  - Attended a Great Basin consortium conference in Reno, at which they discussed sage brush habitat conservation and grouse.
  - Reviewed her conversations with several major agency heads.
    - Need for more data about grazing.
    - Potential strategy of demonstrating through the Bi-State Action Plan that the listing is not warranted. Ted Koch could substantiate this strategy if the plan is more specific and is funded.
    - The two biggest threats are invasive species (cheatgrass) and juniper encroachment. Funding would be used to mitigate the invasive species.
    - Private land owners are already implementing some of the actions outlined in the Bi-State Plan.
- Board Discussion
  - Not knowing whether a traditional activity will be considered habitat modification puts land owners in a difficult situation.
  - The taking of private property is disturbing; this issue needs to be addressed.
  - Terminology used in this process, such as “significant”, can be problematic because who determines what it means?
  - Concerned about overbroad regulation; maps need to be drawn as accurately as possible.
  - Ted Koch, USFWS, mentioned the importance of agricultural land; this indicates that private land will be impacted.
  - There needs to be targeted mitigation to avoid taking of private property rights. USFWS should acquire private property if they are concerned about a particular site.
  - Hardly any of the threats specified apply in Mono County.
  - There is compelling evidence that the species has done better due to agriculture. The bird should stop being hunted if it is considered to be a threatened species.
  - Concern that USFWS does not have the resources to do a good job of determining what is actually critical habitat.
  - The legal information provided by Simon needs to be included in the comment letter.
- Scott Burns follow-up
  - All resources will be used to assist in preparing this comment letter, including County Counsel.
  - The required economic study is due in March and will open another comment period. Concerned that FWS won't do enough research on the impacts to local economies.
  - Next steps: Will continue communicating with the USFWS and will bring the comment letter to the Board at their first meeting in February.
- Public Comment
  - Benny Romero: The project is so broad in scope that he is concerned about issues involving water rights. The comment letter should strongly emphasize the importance of agricultural rangelands; this species would not survive without grazing activities. Provided a copy of a letter from Nevada Governor Sandoval.
  - Drew Foster, Lee Vining: Comments about existing exemptions should be included in the letter. Supported the strategy of using the Bi-State Plan to implement actions in lieu of listing.

## 10. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

- Rick Vahl, Mammoth Disposal: Will work with Tony Dublino to provide more

### Note

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors

information to the Board about the inflationary fee adjustment.

## 11. CLOSED SESSION

- **The Board had nothing to report from Closed Session.**

### A. Closed Session--Human Resources

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph, John Vallejo, Leslie Chapman, Bill Van Lente and Jim Leddy. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

### B. Closed Session - Public Employee Performance Evaluation: County Administrator

Departments: County Administrator

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Administrator.

### C. Closed Session

CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property: Pumice Valley Landfill. Agency negotiator: Tony Dublino, Jim Leddy, Marshall Rudolph, Stacey Simon. Negotiating parties: Mono County and LADWP. Under negotiation: Price.

### D. Closed Session - County Counsel Performance Evaluation

PUBLIC EMPLOYMENT. Government Code section 54957. Title: county counsel.

### E. Closed Session - Conference with Legal Counsel

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. Paragraph (1) of subdivision (d) of Government Code section 54956.9. Name of case: Fritsch workers compensation claim.

REGULAR AFTERNOON SESSION COMMENCES AT 2:00 P.M.

#### **Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**



## 12. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

- Aleksandra Gajewski, Publisher/Editor of the Mammoth Times: Provided copies of Sierra Magazine, a supplemental publication that was distributed directly to 35,000 subscribers to the Orange County Register. She hopes to partner with the LA Times and a San Diego paper so the magazine can be distributed more widely. This quarterly magazine promotes the area and various activities, and will be distributed in the markets that visit Mono County. They also distributed 15,000 copies in the Eastern Sierra.

## 13. REGULAR AGENDA - AFTERNOON

### A. Workshop on Resource Efficiency Plan and County Energy Efforts

Departments: Community Development with CAO, Public Works, Finance, Fleet

1 hour (15 minute presentation, 45 minute discussion)

(Wendy Sugimura) - Conduct workshop on Resource Efficiency Plan and related County energy efforts.

#### **Action:** None

- Wendy Sugimura: The Board reviewed this concept as part of the General Plan update; the County is legally required to address greenhouse gas emissions. The proposed Resource Efficiency Plan deals with greenhouse gas emissions, and addresses the Board's desire to find ways to reduce operating expenses and energy consumption. Sugimura reviewed the following:
  - This workshop represents the middle of the policy development process.
  - The Plan addresses reduction targets and measures, and energy and resource reduction initiatives.
  - Government emissions are those generated by Mono County, and community emissions include residential and other governmental agencies.
  - Data on the different types of energy uses or generators of greenhouse gas emissions has been collected.
  - There are generally accepted standards for compiling government and community emissions.
  - Solid waste is largely the biggest sector of greenhouse gas emissions; "waste in place" is considered Mono County emissions because the County operates the landfill.
  - The community inventory includes Mono County, and the governmental inventory (which is only Mono County) is a subset. These combined emissions are a small percentage of that which is generated in California; but because of the small population in Mono County, the per capita figure is a little higher.
  - Reviewed the proposed targets, and possibility of finding mechanisms to incentivize reductions in community emissions.
  - Solid waste doesn't offer a lot of opportunity for savings.
  - The table attached to the staff report outlines best practices.
  - The REP needs to be consistent with AB 32, but this plan becomes part of the General Plan, and is not a regulatory document. There is no penalty if targets aren't achieved.
  - The County will get reduction credits for ongoing efforts.
  - Staff intent is to roll policies into the General Plan. Program-level staff will have specific initiatives to work on based on Board directives.
  - Reviewed Tables 1 (easy measures), 2 (challenging measures), and 3 (difficult measures); asked for direction from the Board.
  - The Plan will eventually come back before the Board for additional review.

#### **Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

Board Comments

- **Supervisor Stump:** The County may need to lobby about the community emissions component since the County has no control over these emissions. Staff should make notations in the documents about this lack of control and shouldn't be held accountable for others' actions. Asked how this would integrate with the mandatory CARB compliance. Asked if the County can use previous improvements, such as the new solar systems installed on community centers.
  - Sugimura: Projects completed starting in 2010 will count.
- **Supervisor Fesko:** Mono County represents a tiny fraction of the problem in California (31/1000ths of 1%); he is concerned with the cost of complying.

The Board discussed various measures presented in Tables 1-3:

- Capital funding
- Energy collectives
- Transportation and commuting
  - Could possibly be achieved by having flex schedules for all employees
- Telecommuting to eliminate road trips
- Ground source heat pumps
- Green procurement policy
- Utilities-scale renewable generation
  - This should be changed to small-scale renewable energy generation
- Strike the word "require" and use "encourage" in the challenging measures
- Employee/contractor incentives to use fuel efficient vehicles
  - Strike this bullet point
- Under Resources (Table 1), the concept of using community packages rather than septic tanks needs clarification
- Off-road fleet vehicles best practices
  - The County currently practices this concept
- Green building
  - Don't impose on citizens
- Solid waste measures should follow state requirements
  - Explore the possible elimination of one-use bags
- Pay parking
  - This concept is not conducive to Mono County
- Recycle water use for County landscaping
  - Has potential but is limited
- Geothermal projects are not addressed; CEQA might be inhibiting the development of some projects

As a result of this workshop, Sugimura will do the following: 1) Leave targets where they are; 2) Take the Board's feedback regarding the measures to the consultants; 3) Continue the discussion at the staff level; 4) Remove Table 3 with the exception of exploring the possibility of eliminating one-use plastic bags; 5) Will present the Plan again to the Board at a future meeting.

ADJOURN: 3:20 p.m.

- Adjourn in honor of Billy Anderson and Dan Dennis.

ATTEST:

---

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

BYNG HUNT  
CHAIR

---

LYNDA ROBERTS  
CLERK OF THE BOARD

§§§§§



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: Board of Supervisors**

**TIME REQUIRED** 5 minutes

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

Outgoing Board Chair

**SUBJECT** Election of New Board Chair

---

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

The outgoing Board Chair will call for nominations to elect the Chair of the Board for 2014.

---

### RECOMMENDED ACTION:

Elect the new Chair of the Board for 2014.

---

### FISCAL IMPACT:

None.

---

**CONTACT NAME:** Shannon Kendall

**PHONE/EMAIL:** x5533 / skendall@mono.ca.gov

---

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
***PRIOR TO 5:00 P.M. ON THE FRIDAY  
32 DAYS PRECEDING THE BOARD MEETING***

### SEND COPIES TO:

---

### MINUTE ORDER REQUESTED:

YES  NO

---

### ATTACHMENTS:

[Click to download](#)

No Attachments Available

---

### History

**Time**

12/26/2013 11:55 AM

**Who**

Clerk of the Board

**Approval**

Yes

---



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: Board of Supervisors**

**TIME REQUIRED** 5 minutes

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

Newly Elected Board Chair

**SUBJECT** Election of New Vice-Chair to the  
Board

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

The newly-elected Board Chair will call for nominations to elect the Vice Chair of the Board for 2014.

### RECOMMENDED ACTION:

Elect the new Vice Chair of the Board for 2014.

### FISCAL IMPACT:

None.

**CONTACT NAME:** Shannon Kendall

**PHONE/EMAIL:** x5533 / skendall@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
***PRIOR TO 5:00 P.M. ON THE FRIDAY  
32 DAYS PRECEDING THE BOARD MEETING***

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

[Click to download](#)

No Attachments Available

### History

**Time**

12/26/2013 11:58 AM

**Who**

Clerk of the Board

**Approval**

Yes



**OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS**

**REGULAR AGENDA REQUEST**

Print

**MEETING DATE**      January 7, 2014

**Departments: Board of Supervisors**

**TIME REQUIRED**      10 minutes

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**                      Board Chair

**SUBJECT**              Presentation to Outgoing Chairman Hunt

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Presentation to Chairman Hunt by newly elected Board Chair honoring Supervisor Hunt's service to the Board in 2013.

**RECOMMENDED ACTION:**

None.

**FISCAL IMPACT:**

None.

**CONTACT NAME:** Shannon Kendall

**PHONE/EMAIL:** x5533 / skendall@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available

**History**

Time	Who	Approval
12/23/2013 7:08 AM	County Administrative Office	Yes
12/26/2013 12:01 PM	County Counsel	Yes
12/26/2013 12:00 PM	Finance	Yes



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: CAO**

**TIME REQUIRED**

**SUBJECT** 2014 Mono County Legislative  
Platform

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

---

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Final review and potential adoption of the proposed 2014 Mono County Legislative Platform.

---

### RECOMMENDED ACTION:

Adopt 2014 Mono County Legislative Platform and direct staff to distribute to Mono County's state and federal legislators as well as to the California State Association of Counties, the Rural Counties Representatives of California and begin scheduling visits with legislators for Board members.

---

### FISCAL IMPACT:

None.

---

**CONTACT NAME:** Jim Leddy

**PHONE/EMAIL:** (760) 932-5414 / jleddy@mono.ca.gov

---

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

---

### MINUTE ORDER REQUESTED:

YES  NO

---

### ATTACHMENTS:

Click to download

- [2014 Mono County Legislative Platform](#)
- [2014 Mono County Legislative Program updated in tracked changes.](#)

---

History

<b>Time</b>	<b>Who</b>	<b>Approval</b>
12/23/2013 7:07 AM	County Administrative Office	Yes
12/30/2013 8:50 AM	County Counsel	Yes
12/30/2013 3:07 PM	Finance	Yes





# COUNTY OF MONO

---

P.O. BOX 696, BRIDGEPORT, CALIFORNIA 93517  
(760) 932-5410 • FAX (760) 932-5411

Jim Leddy  
County Administrative Officer

Bill Van Lente  
Director of HR/Risk Management

January 7, 2014

To: Honorable Chair and Members of the Board of Supervisors  
From: Jim Leddy, County Administrative Officer  
Sarah Messerlian, Office Manager

## **SUBJECT**

2014 Mono County Legislative Platform Draft updated

## **RECOMMENDATION**

- 1) Adopt 2014 Mono County Legislative Platform as amended by the Board on December 10, 2013.
- 2) Direct staff to distribute to Mono County state and federal legislators as well as schedule appropriate visits.
- 3) Schedule Annual semi-annual reviews of the Platform, coupled with reports from California State Association of Counties Staff as well as Rural County Representatives of California staff as appropriate.

## **FISCAL IMPACT**

There is no fiscal impact from adopting the Platform.

## **DISCUSSION**

In early 2013, the Board of Supervisors discussed Mono County developing a Legislative Platform to strengthen the County's advocacy at the state and federal level. A draft 2014 Mono County Legislative Platform was developed by staff and reviewed on December 10<sup>th</sup>, 2013 by the Board. The Board made recommendations for language changes which have been incorporated in the Attachment.

The draft Platform included legislative items that the Board has already taken a position on from January 2013 to present, as well as additional input provided by departments. In addition, in preparing this draft, staff reviewed the following documents: CSAC 2013 State and Federal Advocacy Priorities, Rural County Representatives of California (RCRC) 2013-14 Policy Principles, the draft Eastern Sierra Council of Governments (ESCOG) Legislative Platform, County of Mendocino 2013 State and Federal Legislative Platform, and Sonoma County 2013 State and Federal Legislative Program.

Legislative Platforms are intended to be living documents which change as the strategic goals of the organization are achieved and as unanticipated items arise during a state or federal legislative session. Items uncovered by the Platform and which the County should address, will be handled in the same manner as they have been in the past, by bringing the issue before the Board for public dialogue and Board direction.

To ensure this platform remain relevant, it is further recommended the Platform be reviewed, updated and adopted annually in December.

If you have any questions please contact me at (760) 932-5414 or [jleddy@mono.ca.gov](mailto:jleddy@mono.ca.gov).



# Mono County

## 2014 State and Federal Legislative Platform

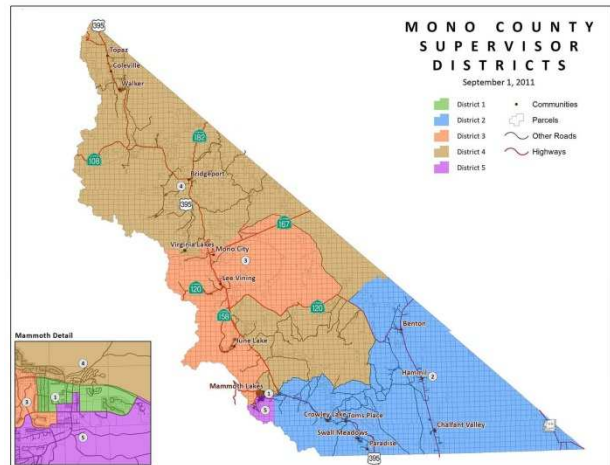
Adopted by the Mono County Board of Supervisors

December XX, 2013

**MONO**  
C O U N T Y

# Mono County Board of Supervisors

- Larry Johnston ..... District 1
- Fred Stump ..... District 2
- Tim Alpers ..... District 3
- Tim Fesko ..... District 4
- Byng Hunt ..... District 5



Jim Leddy  
County Administrative Officer  
PO Box 696  
Bridgeport, CA 93517  
Tel: (760) 932-5410  
Email: [jleddy@mono.ca.gov](mailto:jleddy@mono.ca.gov)

## Table of Contents

	Page No.
Introduction .....	4
General Guidelines.....	5
State Priorities.....	6
Protect County Revenue Sources .....	6
Encourage Regulation Relief/Reform .....	6
Natural Resources.....	6
Public Safety & Criminal Justice .....	7
Transportation & Infrastructure .....	7
Administrative & Fiscal Services .....	8
Health & Human Services .....	9
Federal Priorities.....	10
Support Funding/Program Preservation.....	10
Natural Resources & Agriculture .....	11
Endangered Species .....	11
Public Safety & Criminal Justice .....	12
Transportation & Infrastructure .....	12
Elected Officials.....	13

## Introduction

Mono County, California, is a rural county situated between the crest of the Sierra Nevada Mountains and the California/Nevada border. Accessed by state-designated Scenic Byway US Highway 395 which weaves its way north-south, Mono County is 108 miles in length, and has an average width of only 38 miles. With dramatic mountain boundaries that rise in elevation to over 13,000 feet, the county's diverse landscape includes forests of Jeffrey and lodge pole pine, junipers and aspen groves, hundreds of lakes, alpine meadows, streams and rivers, and sage-covered high desert. The county has a land area of 3,030 square miles, or just over 2 million acres, 94% of which is publicly owned. Much of the land is contained in the Inyo and Humboldt-Toiyabe National Forests, as well as the John Muir and Ansel Adams Wilderness areas. As a result, Mono County offers vast scenic and recreational resources, and has unsurpassed access to wilderness and outdoor recreation and adventure.

The county is home to, and named after Mono Lake, which is a large high-desert saline lake with intriguing limestone tufa formations, and is a vital habitat for millions of migratory and nesting birds. Mono Lake is just one of the reasons that Mono County was listed in the "Top 10 U.S. Destinations to Visit" in 2013, by pre-eminent travel guide publisher, *Lonely Planet*, along with the historic gold rush town of Bodie, which during its heyday in the late 1800's was home to as many as 10,000 people, and is now maintained in a state of "arrested decay" for the public to come and enjoy. The travel guide also called out Devils Postpile National Monument, which stretches 60 feet into the sky like a giant stone pipe organ and is one of the world's finest examples of columnar basalt. Yet another natural wonder, Yosemite National Park is only 12 miles from Lee Vining and Mono Lake; the park's east entrance gate is located at the top of Tioga Pass, which is open seasonally from mid-May to early November.

Mono County has several small towns and charming villages, each with their own scenic beauty, year-round recreational opportunities, natural and historical attractions, and unique characteristics. The County seat is proudly located in Bridgeport where the original courthouse is the second oldest in the state to be in continuous use. The only incorporated town in the county is Mammoth Lakes, which is located at the base of world-renowned Mammoth Mountain Ski Area, with a summit of 11,053 feet, over 3500 skiable acres, 28 lifts, and an average of 400 inches of snowfall annually. Approximately 7,500 people reside in the Mammoth Lakes area year-round, but during the peak winter season, the population swells to over 35,000 when visitors from around the state, country and world come to ski and snowboard and take part in many other winter activities. Sister resort, June Mountain, just 20

miles north of Mammoth, offers uncrowded, wide-open slopes and a more peaceful, family-friendly alternative to busier ski areas.

Summer, however, is when Mono County really shines. The region offers countless miles of alpine hiking, superb trout fishing at dozens of well-stocked lakes, streams and rivers, kayaking, cycling, horseback riding, golfing and endless warm-weather adventures. Photographers flock to the county in September and October when it is almost impossible to take a bad photo of the fall color that lights up the Eastern Sierra landscape. *Sunset Magazine* named Mono County one of the “Top 5 places to Hike” in autumn and *TravelAndLeisure.com* listed Mono County as one of “America’s Best Fall Color Drives.” A wide variety of lodging, restaurants and shops are available throughout the county, and commercial air service to Mammoth Yosemite Airport, just a 10 minute drive from the Town of Mammoth Lakes, is available from Los Angeles, San Francisco, Orange County and San Diego on Alaska and United Airlines throughout the winter, and from Los Angeles in summer and fall.



## General Guidelines

The Mono County Board of Supervisors supports the general guidelines set forth below. County staff will apply these guidelines in evaluating legislation, as well as executive and regulatory actions. It is the Board's objective to implement these guidelines.

To support the County's service to the community, the County should:

- Support legislative and budget efforts that protect and/or enhance local governments revenues, maximize the County's access to state and federal funding sources, and/or increases local funding flexibility;
- Oppose any effort to balance the state budget through the taking of local government resources;
- Support legislation that protects the County's quality of life, its diverse natural resources, and preserves the essence and history of the County;
- Support legislation that provides tax and funding formulas for the equitable distribution of state and federal monies while opposing attempts to decrease, restrict or eliminate County revenue sources;
- Support legislation and budget action which provides additional and continuing funding for local road infrastructure;
- Oppose legislative and administrative actions which would create federal unfunded mandates and/or preempt local decision making authority;
- Support legislation that realigns governmental services in such a manner as to improve the delivery of services and make government more accountable to the people;
- Support the promotion of tourism and a diversified local economy in the Eastern Sierra in order to achieve strong economic growth and prosperity;
- Continue to support legislation that honors our veterans for their service to our country;
- Support efforts that further the goals outlined in the County's Strategic Plan (once developed and adopted).

## State Priorities

1. **Protect County Revenue Sources** - Many County programs are at risk due to the instability of State and Federal funding. The Board supports efforts to sustain funding enabling continuation of critical programs for Mono County's constituents.
2. **Encourage Regulation Relief/Reform** – Given government downsizing at all levels, the Board supports efforts to achieve responsible regulation relief in the following areas:
  - a. **California Environmental Quality Act (CEQA) Reform** –Support legislative reforms to CEQA to simplify and streamline local permit processing, while still protecting the environment. State Involvement in local matters should always be collaborative rather than oversight (I.e. Mines and Geology; Housing and Community Development) Certain exemptions to CEQA should also be extended so they not only apply to urban areas but also to the smaller developed communities more commonly found in rural counties such as Mono.

Efforts to streamline CEQA should include:

- i. Eliminate duplicative layers of regulation between state and federal agencies;
- ii. Single Permit issuance where multiple agencies regulate (i.e. wetlands permit);
- iii. Support the granting of CEQA Exemptions for projects in existing local government Right of Ways.

### 3. Natural Resources & Agriculture

- a. **Sustainable Funding for State Parks** – Continue to support measures to sustain our State parks for the continued enjoyment of visitors and local residents alike. Closure of these parks would result in a significant negative economic impact on our County as tourism is one of our most important economic drivers.
- b. **Continue forest management to protect our Communities from vegetation Fires** –
  - i. Support measures to address wild fire prevention policies and programs in both private and public lands. Ensure these measures are aware of out of area impacts i.e. smoke into other regions.
  - ii. Continue to seek funding for legislation that supports these goals.
- c. **Support Bio-energy Action Plan** - Mono County supports the ongoing commitment of the California Energy Commission to the 2012 Bio-energy Action Plan, which has resulted in working groups such as the California Biomass



Collaborative and legislation like SB 1122. We encourage the various state agencies involved to continue evolving this field of work to produce cleaner, more affordable technology based on sustainable and healthy forestry principles in a manner that benefits rural Sierra economies. In particular, we encourage state agencies such as the Sierra Nevada Conservancy and California Energy Commission to provide funding for project scoping and planning. Determining a suitable site and the biomass supply that is sustainably available and generating community support is critical to a project's success, but funding for these activities is currently limited.

- d. **Support legislation that promotes, protects, or facilitates the sustainability of our local agricultural** - Mono County agriculture is an important local economic driver, provides jobs, and contributes to the open-space landscape that draws visitors.

#### 4. Public Safety & Criminal Justice

- a. **Encourage Efforts to Combat Illegal Trespass due to Marijuana Cultivation** - Instances of illegal trespass and violent crimes on both public and private lands place our residents, visitors, and law enforcement officers at risk. The County will advocate for solutions to stem illegal marijuana cultivation in all areas of the County by working with private property owners, the U.S. Forest Service, the Bureau of Land Management, the California State Board of Forestry and Fire Protection, the California Department of Parks and Recreation, and other regulatory entities to address this problem. The County also supports fines that cover the cost of site clean-up and restoration to mitigate for the impacts to the land, water quality and quantity.
- b. **State Realignment & Cost-Shifts** - Continue to ensure successful implementation of the broad array of programs transferred to county jurisdiction under the 2011 Public Safety Realignment. Including appropriate distribution of AB 109 funding. Support state policy changes that will allow for greater administrative and program flexibility for County programs associated with this shift of responsibility.
- c. **Rural Fire Districts** - The population of Mono County is highly rural and dependent upon voluntary associations that provide basic emergency services. These volunteer fire districts provide services to residents, tourists, and are often the first responders to accidents. Support relief for rural fire districts.

#### 5. Transportation & Infrastructure

- a. **Support legislation and budget action which provides additional and continuing funding for local road and county facility infrastructure.**

- i. **Support rehabilitation of Highway 270** - Our County economy is based on tourism and one of the main attractions in the Bridgeport area is Bodie State Historical Park. Currently the unpaved section of State Highway 270 which connects the park to Highway 395 is in disrepair. Seek legislation that funds state repairs and maintenance as deemed appropriate by the responsible state agencies for State Highway 270. .
  - ii. **Support Early Sierra Pass Openings** - Another main attraction for tourists in the Eastern Sierra is Yosemite National Park. It is vital for Mono County tourism that all trans Sierra passes including Tioga Pass (State Route 120), Sonoma (SR 108) and Monitor (SR 89) are open by Memorial Day, allowing spring holiday travelers access to the park from the eastside. In the past, ensuring timely snow removal has required collaboration between Caltrans, the County and in the case of Highway 120 the Yosemite National Park and the County. Each agency currently provides funding, equipment and personnel for various sections of the road. Seek legislation that ensures State and Park responsibility, funding and timeliness for their sections of the road, allowing county funds to be used for County roads.
- b. **Support state resources for county compliance with California Air Resources Board (CARB) Emissions Standards** – In order to meet the CARB requirements for improving air quality in California, Mono County will need to replace most of our fleet of heavy duty diesel equipment. Current replacement schedules show this would cost the County around \$21 million over the next 14 years. Support legislation extending the compliance deadline in rural counties for replacement of on-road and off-road heavy duty diesel equipment. Support exemptions for rural counties that do not have the resources to meet regulatory requirements and encourages financial assistance from the State Air Resources Board to foster compliance.

## 6. Administrative & Fiscal Services

- a. **Support resources for improving county record keeping services and election administration and monitor legislation that may impact the following:**
  - i. 1) recording fees and process, and recorded documents;
  - ii. 2) vital statistic fees and process;
  - iii. 3) public records;
  - iv. 4) unfunded mandates;
  - v. 5) vote-by-mail, voter registration, election management systems, elections process, and election equipment.

- b. **Support Williamson Act Funding** - The State of California has eliminated funding for the Williamson Act (the California Land Conservation Act). Mono County, like most other rural counties, is dependent on State funding to offset the loss of property tax revenue to the County. This program has been hugely beneficial to our agricultural county. Support legislation and budget language that seeks full funding of the Williamson Act.
- c. **Support the full funding of all Payment in Lieu of Taxes (PILT)** - Support legislation and budget efforts that continue to maximize the PILT revenue from the federal and state government to counties and continues full funding of PILT without restrictions beyond the current authorization.

## 7. Health & Human Services

- a. **Ensure State and Federal Healthcare Reform has equitable funding formula for rural counties** - In 2014, Implementation of Affordable Care Act (ACA) will begin, it is vital that local government funding streams reflect equitable distribution formulas to service our rural constituents. Securing adequate funding to sustain health care reform measures is important to Mono County. Key issues include:
  - i. Medi-Cal expansion and funding for these mandates
  - ii. The 1991 Realignment allocation/amounts

## Federal Priorities

1. **Support Funding/Program Preservation** – Support legislative, regulatory and budget efforts that protect and/or enhance local governments’ revenues, maximize the County’s access to federal funding sources, and/or increase local funding flexibility.
  - a. **Oppose Federal unfunded mandates and/or preempt local decision-making authority**
  - b. **Ensure Affordable Care Act (ACA) funding maintained for local governments** – Support the Prevention and Public Health Fund of the ACA, the nation’s first dedicated mandatory funding stream for public health and prevention activities, which support Mono County health care services to underserved residents.
  - c. **Support federal funding for Housing and Economic Development Programs** – Support the highest possible funding level for key federal housing and economic development programs, including the Community Development Block Grant (CDBG).
  - d. **Support local efforts to develop alternative energy sources including but not limited to appropriate scale biomass, solar, wind and geothermal power generation.**
  - e. **Support funding for Broadband Deployment through the funding of infrastructure projects and grant programs, allocation of resources to broadband planning, advisory, or support oriented organizations** - Mono County is a rural California county in which most of our communities and constituents lack access to high-speed Internet. Though improving in the region through the Digital 395 Project, Mono County communities and residents still face barriers to connectivity. Support for federal funds is critical, as infrastructure projects in much of the area are typically cost prohibitive, and do not yield a significant enough return based on the small population.
  - f. **Support legislation that promotes, protects, or facilitates the sustainability of our local agricultural** - Mono County agriculture is an important local economic driver, provides jobs, and contributes to the open-space landscape that draws visitors.
  - g. **Support Economic Development Resources** –
    - i. **Support H.R. 1241, an act to facilitate a land exchange at the base of Mammoth Mountain Ski Area** - The vitality of Mammoth Mountain will have substantial beneficial economic effects on the Eastern Sierra region

and Mono County, including increased property tax and transient occupancy tax revenues, increased regional visitation, and direct and indirect job creation.

- ii. **Ensure access to federal public lands which support tourism**
- iii. **Maintain and support access to small business capital for local business development through the Small Business Administration.**
- iv. **Support the funding of efforts to bolster fishing and other recreational activities such as funding for the Lahonton Cutthroat Trout Recovery Program.**

2. **Natural Resources & Agriculture** – Support legislation that ensures public access to local natural resources and agriculture throughout the County.

- a. **Support Forest Fuels Reduction and Management Efforts** - with 94% of Mono County publically owned, much of which is covered with high fuel loads, fuels reduction is a major concern for Mono County and its communities. Continue to seek funding priority fuel reduction projects around Mono County communities and key tourist resources through local fire safe councils and public agencies.
- b. **Support control and mitigation for the spread of invasive species to protect, conserve and restore public and private lands**
- c. **Support Biomass Project Development** – Support legislation that encourages the US Forest Service (USFS) to continue actively promoting and assisting with biomass project development. For instance, the Woody Biomass Utilization Grant is critical to funding engineering and design for a somewhat high-risk venture, and is directly related to the USFS’s multiple-use mission which requires healthy forests.

3. **Endangered Species** – **Support a balanced approach of the implementation of endangered species regulation with impacts to the economy and communities of Mono County.** Mono County is fortunate to have a rich natural heritage which should be conserved, and supports the need to protect and recover imperiled species. At the same time, these conservation measures must be weighed and balanced against impacts to the fragile rural economy and local communities, and every effort must be made to protect private property rights and avoid detrimental impacts to County residents. The species below only include those known or anticipated to be listed, and any other listings that may arise should be analyzed carefully.

- a. **Minimize local impacts that result from Yellow Legged Frog and Yosemite Toad Listing and Critical Habitat Designation** – Ensure critical habitat and the threats

to the Sierra Nevada yellow-legged frog and Yosemite toad are correctly identified to stop the precipitous decline of these species and support their eventual recovery while minimizing impacts to the economy and communities of Mono County.

- b. Oppose Proposed Sage-Grouse Listing under the Endangered Species Act (ESA)**  
– Support continued participation by federal agencies in a collaborative process to address Bi-State Sage-Grouse listing and conservation efforts. A current USFWS listing proposal recommends over 82% of our small private land base to be included within critical habitat for the sage-grouse.
- c. Monitor Western Yellow-billed Cuckoo listing process-** Mono County is not impacted by the Service's current proposal to list the cuckoo as a threatened species. Found in counties to the north, west and south of Mono County, the potential exists that the County could be impacted by a future critical habitat designation proposal.
- d. Monitor American Wolverine & Pacific Fisher listing process** - Proposals are anticipated for these two species that currently and/or historically occurred in Mono County, based on the list of species from a July 2011 legal settlement between the Service and the Center for Biological Diversity. The settlement requires the Service to make listing determinations for 757 species by 2018.

#### **4. Public Safety & Criminal Justice**

- a. Support full funding of Byrne Justice Assistance Grants** – Support the preservation of funding levels for existing safety programs such as the Byrne Justice Assistance Grant (Byrne/JAG) Program and oppose efforts to reduce or divert funding away from these programs.

#### **5. Transportation & Infrastructure**

- a. Ensure federal transportation formulas support rural road infrastructure** - Mono County has concerns regarding the continued implementation of the federal surface transportation reauthorization program, known as the Moving Ahead for Progress in the 21<sup>st</sup> Century Act or MAP-21. Mono County relies on the network of state highways and locally maintained roads to link residents to essential services. Transportation funding formulas should provide funding protections or guarantees for California's rural transportation system and reflect that rural counties lack viable means to fund larger projects that provide statewide benefit. We should advocate for formulas that distribute federal funds to support local transportation priorities.

- b. Support efforts to protect the Highway Trust Fund and support programs that provide funding for local roads, bridges, and transit initiatives including pedestrian and bicycle systems.**

## Elected Officials

### Elected State Representatives:

<p>Assemblymember Frank Bigelow                      5<sup>th</sup> Assembly District                      State Capitol, Suite #4116                      Sacramento, CA 94249-0005                      Phone: (916) 319-2005                      Fax: (916) 319-2105                      Website: <a href="http://arc.asm.ca.gov/">http://arc.asm.ca.gov/</a></p>	<p>Senator Tom Berryhill                      14<sup>th</sup> Senate District                      State Capitol, Room 3076                      Sacramento, CA 95814                      Phone: (916) 651-4014                      Fax: (916) 651-4914                      Website: <a href="http://district14.cssrc.us/">http://district14.cssrc.us/</a></p>
<p>Governor Jerry Brown                      c/o State Capitol, Suite 1173                      Sacramento, CA 95814                      Phone: (916) 445-2841                      Fax: (916) 558-3160                      Website: <a href="http://gov.ca.gov/">http://gov.ca.gov/</a></p>	

### Elected Congressional Representatives:

<p>Senator Barbara Boxer                      United States Senate                      112 Hart Senate Office Building                      Washington, D.C. 20510                      Phone: (202) 224-3553                      Fax: (202) 224-0454                      Website: <a href="http://www.boxer.senate.gov/">http://www.boxer.senate.gov/</a></p>	<p>Senator Dianne Feinstein                      United States Senate                      331 Hart Senate Office Building                      Washington, D.C. 20510                      Phone: (202) 224-3841                      Fax: (202) 228-3954                      Website: <a href="http://www.feinstein.senate.gov/">http://www.feinstein.senate.gov/</a></p>
<p>Congressman Paul Cook                      8<sup>th</sup> Congressional District                      1222 Longworth House Office Building                      Washington, DC 20515                      Phone: (202) 225-5861                      Fax: (909) 797-4997                      Website: <a href="http://cook.house.gov/">http://cook.house.gov/</a></p>	





OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: Finance**

**TIME REQUIRED**

**SUBJECT** November 2013 Transaction Report

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Treasury Transactions for the month of November 2013.

### RECOMMENDED ACTION:

None. Informational only.

### FISCAL IMPACT:

None.

**CONTACT NAME:** Rose Glazier

**PHONE/EMAIL:** 760-932-5480 / rglazier@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

[November 2013 Transaction Report](#)

### History

Time	Who	Approval
1/2/2014 12:49 PM	County Administrative Office	Yes
1/2/2014 12:30 PM	County Counsel	Yes
1/2/2014 9:40 AM	Finance	Yes



# Mono County

## Transaction Summary by Action

### All Portfolios

Begin Date: 10/31/2013, End Date: 11/30/2013

Action	Settlement Date	CUSIP	Face Amount / Shares	Description	Purchase Price	Principal	Interest / Dividends	YTM @ Cost	Total
<b>Buy Transactions</b>									
Buy	11/19/2013	511012GE0	650,000.00	Lake Tahoe Unified School District 0 8/1/2017	95.32	619,567.00	0.00	1.30	619,567.00
<b>Subtotal</b>			<b>650,000.00</b>			<b>619,567.00</b>	<b>0.00</b>		<b>619,567.00</b>
Deposit	11/13/2013	LAIF6000	3,000,000.00	Local Agency Investment Fund LGIP	100.00	3,000,000.00	0.00	0.00	3,000,000.00
Deposit	11/19/2013	OAKVALLEY0670	275.65	Oak Valley Bank Cash	100.00	275.65	0.00	0.00	275.65
Deposit	11/20/2013	LAIF6000	1,500,000.00	Local Agency Investment Fund LGIP	100.00	1,500,000.00	0.00	0.00	1,500,000.00
Deposit	11/30/2013	OAKVALLEY0670	1,292.58	Oak Valley Bank Cash	100.00	1,292.58	0.00	0.00	1,292.58
Deposit	11/30/2013	OAKVALLEY0670	14,180,450.13	Oak Valley Bank Cash	100.00	14,180,450.13	0.00	0.00	14,180,450.13
<b>Subtotal</b>			<b>18,682,018.36</b>			<b>18,682,018.36</b>	<b>0.00</b>		<b>18,682,018.36</b>
<b>Total Buy Transactions</b>			<b>19,332,018.36</b>			<b>19,301,585.36</b>	<b>0.00</b>		<b>19,301,585.36</b>
<b>Interest/Dividends</b>									
Interest	11/1/2013	675383KK8	0.00	Oceanside Ca Unified School Dist 4.5 5/1/2016		0.00	32,400.00	0.00	32,400.00
Interest	11/1/2013	3134G3S50	0.00	FHLMC 0.625 11/1/2016		0.00	6,250.00	0.00	6,250.00
Interest	11/3/2013	037833AJ9	0.00	apple Inc 1 5/3/2018		0.00	2,500.00	0.00	2,500.00
Interest	11/7/2013	313382SY0	0.00	FHLB 0.55 11/7/2016		0.00	5,500.00	0.00	5,500.00
Interest	11/8/2013	3136G0Y39	0.00	FNMA Step 11/8/2017-13		0.00	6,250.00	0.00	6,250.00
Interest	11/9/2013	36962G4T8	0.00	General Electric Cap Corp 2.25 11/9/2015		0.00	11,250.00	0.00	11,250.00
Interest	11/13/2013	36962G4C5	0.00	General Electric Cap Corp. 5.9 5/13/2014		0.00	14,750.00	0.00	14,750.00
Interest	11/15/2013	3136G03G4	0.00	FNMA Step 11/15/2017-13		0.00	7,000.00	0.00	7,000.00
Interest	11/15/2013	91159HHD5	0.00	US Bancorp 1.65 5/15/2017		0.00	4,125.00	0.00	4,125.00
Interest	11/19/2013	OAKVALLEY0670	0.00	Oak Valley Bank Cash		0.00	275.65	0.00	275.65
Interest	11/21/2013	33764JPM1	0.00	First Bank Puerto Rico 0.9 11/23/2015		0.00	191.10	0.00	191.10
Interest	11/21/2013	3136G04F5	0.00	FNMA Step 11/21/2017-13		0.00	7,500.00	0.00	7,500.00
Interest	11/30/2013	OAKVALLEY0670	0.00	Oak Valley Bank Cash		0.00	1,292.58	0.00	1,292.58
<b>Subtotal</b>			<b>0.00</b>			<b>0.00</b>	<b>99,284.33</b>		<b>99,284.33</b>
<b>Total Interest/Dividends</b>			<b>0.00</b>			<b>0.00</b>	<b>99,284.33</b>		<b>99,284.33</b>
<b>Sell Transactions</b>									
Withdraw	11/30/2013	OAKVALLEY0670	15,995,952.58	Oak Valley Bank Cash	0.00	15,995,952.58	0.00	0.00	15,995,952.58



# Mono County Transaction Summary by Action All Portfolios

Begin Date: 10/31/2013, End Date: 11/30/2013

Action	Settlement Date	CUSIP	Face Amount / Shares	Description	Purchase Price	Principal	Interest / Dividends	YTM @ Cost	Total
			<b>Subtotal</b>			<b>15,995,952.58</b>	<b>0.00</b>		<b>15,995,952.58</b>
<b>Total Sell Transactions</b>			<b>15,995,952.58</b>			<b>15,995,952.58</b>	<b>0.00</b>		<b>15,995,952.58</b>



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**TIME REQUIRED**

**SUBJECT**

California Fish and Game Commission

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Notices of Findings published in the California Regulatory Notice Register on December 27, 2013, pertaining to: 1) Townsend's big-eared bat (*Corynorhinus townsendii*); 2) Northern spotted owl; 3) American pika.

### RECOMMENDED ACTION:

### FISCAL IMPACT:

**CONTACT NAME:** Lynda Roberts

**PHONE/EMAIL:** 760-932-5538 / lroberts@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

- [Big-eared bat](#)
- [Spotted owl](#)
- [American pika](#)

### History

Time	Who	Approval
12/30/2013 2:59 PM	County Administrative Office	Yes
1/2/2014 12:30 PM	County Counsel	Yes
12/30/2013 3:10 PM	Finance	Yes

**Commissioners**  
**Michael Sutton**, President  
Monterey  
**Richard Rogers**, Vice President  
Santa Barbara  
**Jim Kellogg**, Member  
Discovery Bay  
**Jack Baylis**, Member  
Los Angeles  
**Jacque Hostler-Carmesin**, Member  
McKinleyville

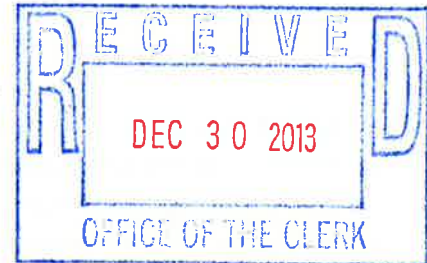
STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Sonke Mastrup**, Executive Director  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
(916) 653-5040 Fax  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

## Fish and Game Commission



December 24, 2013



TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a Notice of Findings regarding the Townsend's big-eared bat (*Corynorhinus townsendii*) which will be published in the California Regulatory Notice Register on December 27, 2013.

Sincerely,

  
Sheri Tiemann  
Associate Governmental Program Analyst

Attachment

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

CALIFORNIA FISH AND GAME COMMISSION  
2013 NOV 14 PM 3:07

## NOTICE OF FINDINGS

Townsend's Big-eared Bat

(*Corynorhinus townsendii*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its June 26, 2013, meeting in Sacramento, California, accepted for consideration the petition submitted to list the Townsends Big-eared Bat as a threatened or endangered species. The Commission determined, based on the best available science, the extensive information contained in the petition, the Department of Fish and Wildlife petition evaluation report, and oral testimony that designating Townsend's Big-eared Bat as an endangered or threatened species under CESA may be warranted (see Sections 2073.5 and 2074.2 of the Fish and Game Code).

Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Wildlife shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the June 26, 2013, Commission meeting, are on the Commission web site or available for public review from Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Written comments or data related to the petitioned Action should be directed to the Commission at the aforementioned address.



Sonke Mastrup

Executive Director

California Fish and Game Commission

**Commissioners**  
**Michael Sutton**, President  
Monterey  
**Richard Rogers**, Vice President  
Santa Barbara  
**Jim Kellogg**, Member  
Discovery Bay  
**Jack Baylis**, Member  
Los Angeles  
**Jacque Hostler-Carmesin**, Member  
McKinleyville

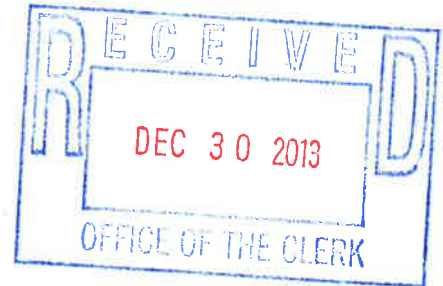
STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

## Fish and Game Commission



**Sonke Mastrup**, Executive Director  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
(916) 653-5040 Fax  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

December 24, 2013



TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a Notice of Findings regarding the Northern spotted owl which will be published in the California Regulatory Notice Register on December 27, 2013.

Sincerely,

*Sheri Tiemann*

Sheri Tiemann  
Associate Governmental Program Analyst

Attachment

**CALIFORNIA FISH AND GAME COMMISSION  
NOTICE OF FINDINGS**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Fish and Game Code Section 2074.2, the California Fish and Game Commission (Commission), at its August 7, 2013, meeting in San Luis Obispo, accepted the petition filed by the Environmental Protection and Information Center to list the Northern spotted owl (*Strix occidentalis caurina*) as an endangered or threatened species based on a finding that the petition provided sufficient information to indicate that the petitioned action may be warranted. At this meeting, the Commission announced its intention to ratify its findings at a future meeting.

NOTICE IS ALSO GIVEN that, at its December 11, 2013, meeting in San Diego, the Commission adopted the following findings outlining the reasons for the acceptance of the petition.

I  
BACKGROUND

**September 7, 2012.** The Commission office received a petition from the Environmental Protection Information Center (EPIC) to list the Northern spotted owl as endangered or threatened under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.).

**September 10, 2012.** The Commission office referred the petition to the Department of Fish and Wildlife (Department) for review and analysis pursuant to Section 2073.5 of the Fish and Game Code.

**October 5, 2012.** The Commission submitted a notice of receipt of the petition, for publication in the California Regulatory Notice Register, as well as for mailing to interested and affected parties.

**November 19, 2012.** The Department submitted a written request for a 30-day extension to evaluate the petition.

**December 12, 2012.** The Commission approved the Department's request for a 30-day extension to evaluate the petition.

**February 6, 2013.** The Department submitted its written initial evaluation of the petition (report).

**March 6, 2013.** The Commission announced receipt of the Department's report and indicated its intent to consider the petition, the Department's report, and public comments at the April 17, 2013 meeting.

**April 17, 2013.** The Commission considered the petition, the Department's report, and took additional related public comments. Thereafter, the Commission postponed further deliberations concerning the petition until the August 7, 2013 meeting in order to receive further information on questions raised during the meeting.

**August 7, 2013.** The Commission took further comments, deliberated, and accepted the petition, finding that it contained sufficient information to indicate the petitioned action may be warranted. The Commission directed staff to prepare a draft statement of Commission findings pursuant to Fish and Game Code Section 2074.2.



## II STATUTORY REQUIREMENTS

A species is endangered under CESA if it “is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease.” (Fish & G. Code, § 2062.) A species is threatened under CESA if it is “not presently threatened with extinction [but] is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by [CESA]...” (*Id.*, § 2067.) The Commission exercises exclusive statutory authority with respect to whether a species should be listed as endangered or threatened under CESA. (*Id.*, § 2070.)

The Commission makes the determination as to whether a species currently faces a serious danger of extinction throughout all or a significant portion of its range, (or for a listing as threatened whether such a future threat is likely) on a case-by-case basis after evaluating and weighing all available biological and management information.

Non-emergency listings involve a two-step process. First, the Commission considers a petition to list the species and determines whether the petitioned action “may be warranted.” (Fish & G. Code, § 2074.2.) If it determines the action “may be warranted,” the species is designated as a candidate, related regulatory protection attaches to the species following published notice, and the Department commences a year-long scientific, peer-reviewed study of the species’ status in California. (Fish & G. Code, §§ 2074.6, 2084, 2085.) At the second step of the listing process, the Commission considers the Department’s status report and information provided by other parties, and makes a final decision whether to formally list the species as endangered or threatened. (*Id.*, § 2075.5.)

To be accepted by the Commission as an initial matter, a petition to list a species under CESA must include sufficient scientific information that listing may be warranted. (Fish & G. Code, § 2072.3; Cal. Code Regs., tit. 14, § 670.1, subds. (d), (e).) The petition must include information regarding the species’ population trend, range, distribution, abundance and life history; factors affecting the species’ ability to survive and reproduce; the degree and immediacy of the threat to the species; the impact of existing management efforts; suggestions for future management of the species; the availability and sources of information about the species; information about the kind of habitat necessary for survival of the species; and a detailed distribution map. (Fish & G. Code, § 2072.3; Cal. Code Regs., tit. 14, § 670.1, subd. (d)(1).)

Within 10 days of receipt , the Commission forwards the petition to the Department for an initial evaluation. (Fish & G. Code, § 2073.) Within 90 days thereafter, CESA directs the Department to submit an initial report to the Commission evaluating the information for and against the petitioned action, and including a recommendation on whether the petitioned action may be warranted. (Fish & G. Code, § 2073.5.) The Department may request and be granted a time extension of up to 30 additional days to submit its initial evaluation report to the Commission. (*Ibid.*) Upon receipt of the Department’s initial report, the Commission schedules the petition for consideration at a noticed public hearing. (*Id.*, § 2074.) At the hearing, the Commission considers the petition itself, the Department’s initial written evaluation of the petition, and other comments and information received by the Commission regarding the petitioned action. The Commission, in turn, considers whether there is sufficient scientific information to indicate the petitioned action may be warranted. (*Id.*, § 2074.2.)

The requisite standard of proof to be used by the Commission in deciding whether listing may be warranted was described in *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4<sup>th</sup> 1104 (*NRDC*). In *NRDC*, the court determined that “the section 2074.2 phrase ‘petition provides sufficient information to indicate that the petitioned action may be warranted’ means that amount of information, when considered in light of the Department’s written report and the comments received, that would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur[.]” (*Id.* at p. 1125.) This “substantial possibility” standard is more demanding than the low “reasonable possibility” or “fair argument” standard found in the California Environmental Quality Act (CEQA), but is lower than the standard for a preliminary injunction, which would require the Commission to determine that a listing is “more likely than not” to occur. (*Ibid.*) Distinguishing the fair argument standard under CEQA, the *NRDC* court also noted the “substantial possibility” standard at candidacy under CESA involves an exercise of the Commission’s discretion, and a weighing of evidence for and against listing. (*Ibid.*)

In *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4<sup>th</sup> 597 (*CBD*), the court acknowledged “the Commission is the finder of fact in the first instance in evaluating the information in the record.” (*Id.* at p. 611, citing *NRDC*, 28 Cal.App.4<sup>th</sup> at p. 1125.) The court explained:

“If the information clearly would lead a reasonable person to conclude that there is a substantial possibility that listing could occur, rejection of the petition is outside the Commission’s range of discretion under section 2074.2. (*Id.* at p. 611.)

[T]he standard, at this threshold in the listing process, requires only that a substantial possibility of listing could be found by an objective, reasonable person. The Commission is not free to choose between conflicting inferences on subordinate issues and thereafter rely upon those choices in assessing how a reasonable person would view the listing decision. Its decision turns not on rationally based doubt about listing, but on the absence of any substantial possibility that the species could be listed after the requisite review of the status of the species by the Department[.]”

(*Ibid.*)

Thus at candidacy, without choosing between conflicting inferences, the Commission must objectively evaluate and weigh the information both for and against the listing action and determine whether there is a substantial possibility that the listing could occur. (*Id.* at p. 612.) In order for the Commission to reject a petition, the scientific evidence viewed as a whole must establish the absence of a substantial possibility that the listing could occur.

### III REASON FOR FINDING

The following discussion sets forth and provides an explanation of the bases for the Commission’s determination that the petition provides sufficient information to indicate that the petitioned action to list the Northern spotted owl (NSO) as threatened or endangered may be warranted. The discussion below is not a comprehensive overview of all information considered by the Commission in reaching its determination. However, all written and oral comments, and other information presented to the Commission regarding the petition are considered part of the administrative record of proceedings. The Commission made its determination based upon and after considering its administrative record of proceedings.

Guided by the *NRDC* and *CBD* cases, the Commission now finds, pursuant to Fish and Game Code section 2074.2, subdivision (a)(1), that the petition and other information provide sufficient information to indicate that the petitioned action may be warranted. The Commission also finds that the information before the Commission would lead a reasonable person to conclude that there is a substantial possibility that the listing could occur.

The specific bases for these findings are as follows:

### **1. Population Size and Abundance:**

The petition (pages 12-15) does not include direct information about the population size or abundance of NSO populations in California, nor does it discuss abundance range-wide. The Department deemed the relevant information found in the literature cited in the petition and other scientific documents consulted for its evaluation report to be inconclusive to determine the abundance of NSO range-wide or in California, and concluded that further research and analysis is required to determine the abundance for NSO populations in California. (Evaluation Report, page 6.)

Based on information in the petition and other data available to the Department at the time of its evaluation, the Department's report states that there is uncertainty about whether the declining population trends from specific study areas has translated into an overall decrease in abundance of NSO in California. (Evaluation Report, page 6.) However, based on the studies and the potential threats, the Department acknowledges that abundance may have declined. (Evaluation Report, page 6.)

Comments received from Humboldt Redwood Company (HRC) assert that HRC has, "through our surveys and monitoring over time, found that HRC's forestlands contain a very high density of NSO occurring on the managed landscape." (4/4/13 letter to FGC, page 1.)

### **2. Population Trend:**

The petition summarizes the population trend of NSO (pages 3, 12-15), but does not assess the species' current population trend in California specifically. The petition describes declining population trends over the entire range of NSO, including California, Oregon, and Washington in the United States, and British Columbia, Canada. The petition (pages 13-14) primarily cites a recent study (Forsman et al. 2011) that analyzed eleven study areas spanning Washington, Oregon and northern California cumulatively comprising approximately 9% of the NSO's range. This study indicates an average annual decline of 2.9% for the entire population from 1985 to 2006. For California, two of the three study areas identified declining annual population trends over the analysis period; 1.7% for NSO in Northwest California (1988-2006) and 2.8% for NSO within Green Diamond (1990-2006) land ownership. The third California study area (Hoopa: 1992-2006) is apparently stable, with a point estimate of decline that is not statistically significant.

The evaluation report notes that, while the Department maintains a spotted owl occurrence database that consists of occurrences for both NSO and California spotted owls, until recently the database has not been regularly updated due to budget constraints and therefore population trend data for northern spotted owl populations in California are not readily available to the Department. (Evaluation Report, page 5.) Reports from Mendocino Redwood Company (MRC 2010), Humboldt Redwood Company (HRC 2012), and Green Diamond Resource Company (Green Diamond 2011)

summarized survey results over at least a 10-year period and estimated population trend as characterized by territory occupancy. Respectively, the first report indicated a stable occupancy rate; the second, a varying but apparent overall downward trend; and the third a downward trend over the 10+ year time frame. (Evaluation Report as amended, page 5.) The annual progress report for federal lands in Northwestern California shows a fairly stable NSO population over the last 15 years, however, a body of recent research indicates that increasing threats from barred owls and other factors may negatively influence this trend in the future (Franklin et al. 2012) (Evaluation Report, page 5.)

The petition also discusses and cites literature that indicates population trends on public land declined at a slightly lower rate than those on privately owned and managed lands (Anthony 2006, Davis et al. 2011, Forsman et al. 2011) (page 14). These studies consider the difference to be largely due to the management guidelines developed in the Northwest Forest Plan including the retention of late seral forest stands and other high quality NSO habitats required in the plan. For 8 sites located on federal lands in portions of California, Oregon and Washington from 1985 to 2008, the NSO population trend shows a 2.8% decline each year. The annual decline for just the Northwestern California NSO study area during this period was 1.7% (Davis et al. 2011).

Comments received from HRC assert that “there does not appear to be evidence of a steady decline, and to the contrary there appears to be a stable or slightly increasing number of NSO.” (4/4/13 letter to FGC, page 1.) Comments received from Mendocino Redwood Company (MRC) assert that “occupancy estimates for NSO territories show, at a minimum, a dynamically stable population trend over the past 13 years” and “territory occupancy remained relatively constant over this time and increased slightly during the past three years.” (4/5/13 letter to FGC, page 1.) Comments received from Sierra Pacific Industries (SPI) cite a “5-year landscape survey strategy” on “170,000 acres of SPI ownership,” the results of which “indicated over the 23 years to date since 1989, the study area...demonstrates a stable population...” (4/5/13 letter to FGC, page 2.) Campbell Timberland Management (CTM) asserts that, “[a]lthough we have not conducted an analysis of annual rates of population change for the NSO on the [approximately 165,000 acres of industrial timberlands] ownerships, other analyses have been conducted suggesting the populations of NSOs occurring on the ownerships are stable.” CTM concludes that “[e]ven though our analyses are not robust indicators of annual rates of population change as they do not consider contributions of variables such as immigration, productivity, and other vital rates in open populations, it provides evidence of no discernible decline of NSOs in the study area regardless of contributory effects.” (4/5/13 letter to FGC, pages 1-2.) Crane Mills asserts that “[b]ased on our analysis, we can safely conclude that the NSO population in and around our Main Block ownership is stable and has been over the last 24 years.” (4/11/13 letter to FGC, page 3.)

Based on information in the petition and other data consulted for the petition evaluation, the Department concluded in its report that there is sufficient evidence to conclude that population trends are declining and warrant further evaluation to determine the extent of the decline in terms of the population’s threat of extinction. (Evaluation Report, page 5.)

### **3. Population Range and Distribution:**

The petition (pages 7-10) accurately describes the known historic and current NSO range in California that runs south from Siskiyou to Marin County in Northwestern California. It also discusses that the ranges of the NSO and California spotted owl meet at the southern end of the Cascade Range, near the Pit River area (Gutiérrez and Barrowclough 2005). The petition (Figure 1 on page 8) identifies all

the occupied physiographic provinces in the U.S. occupied by NSO, including three in California: California Coast, California Klamath, and California Cascades (USFWS 2008b).

The petition does not discuss a recent restriction or contraction of the species range or any changes or stability of the range in California; however, the factors identified as contributors to range reduction in the northern part of the species' range may also be factors in many California locations. (Evaluation Report, page 6.)

The petition (pages 9-10) includes very limited information addressing NSO distribution. The current distribution map included with the Department's report shows an increase in the total number of known records, but does not readily impart any new information about the distribution of NSO in California. (Evaluation Report, page 6 and Appendix B.)

The Department did not find evidence to indicate that the distribution of NSO has changed during the time period of years for which surveying/monitoring of the species distribution has occurred. (Evaluation Report, page 6.)

#### **4. Kind of Habitat Necessary for Survival:**

The petition (pages 11-12) lists general, range-wide habitat characteristics necessary for NSO survival, including relatively large areas of complex, older forests for breeding, foraging, roosting and dispersal life history functions (Forsman et al. 2011). However, the petition does not specifically describe habitats that exist in California, nor how available habitat types influence NSO populations found in the state. The only habitat information related to California in the petition attributed to Franklin et al. (2000) is nonspecific to habitat types (page 12).

The petition cites research supporting the assertion that both the amount and the spatial distribution of nesting, roosting, foraging, and dispersal habitat influences NSO reproductive success and long-term population viability (pages 11-12). The petition and the Department's report agree that there have been extensive studies supporting a strong association of northern spotted owls with older forests throughout its range. (Evaluation Report, page 8.)

Citing Diller and Thome (1999), the petition states that breeding occupancy is related to the presence of mature and old-growth forests in Northwestern California, as NSO usually occur in the oldest forests available on private lands (page 12). Then, citing several studies (Carey et al. 1992, Rosenberg and Anthony 1992, Buchanan et al. 1995, LaHaye and Gutiérrez 1999, Lehmkuhl et al. 2006) the petition identifies understory structural characteristics of late-successional forest habitats as important for NSO and its prey (page 12). These conclusions are supported by the referenced studies and the information the Department has in its possession. (Evaluation Report, page 8.)

The petition states that NSO fecundity, production, survival, and recruitment are positively correlated to a larger proportion of older forest habitats in a pair's home range (Forsman et al. 2011, Bart and Forsman 1992, Franklin et al. 2000, Dugger et al. 2005, Olson et al. 2004)(page 12). Additionally, the effects of barred owls have been found to increase with a decrease in the proportion of old forest habitat in a home range (Dugger et al. 2011); however, most of these studies cited are associated with habitats in Southern Oregon and would need further analyses to determine how strongly this correlates with habitats found in California. (Evaluation Report, page 8.)

The petition describes dispersal habitat (page 12) as forested stands with adequate tree size and canopy closure to provide for foraging opportunities and protection from avian predators. The Petition asserts that population growth can occur only if there is adequate habitat in an appropriate configuration to allow for the dispersal of owls across the landscape; including dispersing juveniles, nonresident sub-adults, and adults that have not yet recruited into the breeding population (page 12). The Department's report cites studies (e.g., Davis and Lint 2005) showing a distinct lack of dispersal habitat connectivity within two of the three California Provinces (California Coast and Cascades Provinces). (Evaluation Report, page 8.) However, the Department notes that this and other studies show that a variety of habitats are used for dispersal, and more information is needed to determine what key elements of dispersal habitat structure are required for a sustainable population range-wide and in California (LaHaye and Gutiérrez 1999, Thome et al. 1999, Franklin et al. 2000, Gonzales 2005, Phillips et al. 2010). (Evaluation Report, page 8.)

Comments received from the California Forestry Association (CFA) assert that "Habitat for the NSO is abundant and of high quality on California's private forestlands. The dynamic yet stable population of [NSO] on private forestlands in California is indicative of the high-quality habitat that is present on these lands. California's private forestlands are some of the most productive in the nation, for not only the sustainable production of forests and their products, but also for the production of prey and food sources for the [NSO]. This abundant food source actually results in a smaller home range for many [NSOs], quite often resulting in higher densities of NSO on private forestlands than public." (4/12/13 letter to FGC, page 2.)

Comments received from the Sierra Club's Redwood Chapter and Sierra Club California criticize the "U.S. Fish and Wildlife Service strategy for spotted owl recovery centered on the creation of a network of federally-owned 'late-successional reserves' as habitat islands for [NSO], while largely ignoring habitat destruction elsewhere. As a result, [NSO] have been nearly extirpated on state and private lands throughout the region, and their population status on federal lands remains precarious." (4/10/13 letter to FGC, page 1, 4/16/13 letter to FGC, page 1.)

## **5. Degree and Immediacy of Threat:**

The petition (page 3 and pages 15-25) discusses the degree and immediacy of threat to NSO, relying on sources ranging from USFWS federal listing documents to specific focused studies. The petition provides information that spans potential or documented threats to NSO range-wide, including impacts to the owl populations and prey base, loss of critical habitats by fire, logging and urban development, and other potentially increasing impacts by barred owls, predation, and disease.

The Department's report notes that while the petition did not discuss potential impact and degree of threat from climate change, the research readily available suggests it poses a threat that warrants a full evaluation (Franklin et al. 2000, Spies et al. 2010, Glenn et al. 2011). (Evaluation Report, page 10.)

While loss of late-seral forest and other required habitat elements across the NSO's range is well-documented (USFWS 2011a, Moeur et al. 2005, Raphael 2006, Courtney et al. 2004), the petition describes extensive habitat loss in Washington and Oregon over the last 20 years (Courtney et al. 2004, Davis and Lint 2005, Campbell et al. 2010) but does not cite studies discussing historic or recent habitat loss for California. The petition instead identifies twenty-seven Sierra Pacific Industries (SPI) timber harvesting plans (THPs) (Table 3 in the Petition) as activities "destroying northern spotted owl habitat in violation of the ESA Section 9 'Take' prohibition" (pages 16-17), and

concludes that over 2833 ha (7000 ac) of NSO habitat have been or will be destroyed by these plans. However, no supporting data was provided with the petition for the information in the table, and the Department's report concludes that a more in-depth evaluation is needed to assess the impacts of timber harvest activities in California for direct, indirect and cumulative effects to NSO populations. (Evaluation report, page 10.)

The petition and the Department's report agree that one of the greatest threats to the NSO, both in California and across its range, is the increasing competition by the barred owl. Barred owls have expanded westward and now completely overlap the range of the NSO. The barred owl is known to prey upon, hybridize with, displace and out-compete northern spotted owls (USFWS 2011a). The petition and the Department's report agree that the barred owl poses an increasing threat to NSO due to competition for breeding and foraging habitats, and the associated significant negative effects on NSO reproduction and survivorship. (Evaluation report, page 11.)

The Department's report shows a north to southward trend in the expansion of the barred owl range, with this threat recently moving into California. Studies cited in the Department's report indicate that the barred owl may be the primary reason for the near-extirpation of NSO in Canada, as well as the factor in the marked declines in Washington and Oregon (Forsman 2011, USFWS 2011a, USFWS 2012b, Dark et al. 1998, Kelly et al. 2003). (Evaluation report, page 11.) After a period of initial invasion, barred owl populations increase as do their potential impacts to NSO. Currently, the California portion of the NSO's range is experiencing the post-invasion increase in barred owls. As in other parts of the NSO's range, the barred owl may be the primary reason for recent declines in California. Recent scientific information (Diller et al. 2010) cited in the Department's report suggests a strong negative link between barred and NSO. The related research cited above on Green Diamond Resource Company land found in most cases that NSO reoccupied areas where barred owls were removed. (Evaluation report, page 11.)

The petition further identifies predation and West Nile Virus as potential threats that may have a negative impact on the northern spotted owl populations in the future (page 18). A more thorough evaluation of current research is required to determine the extent to which these factors may influence owl population viability in California. The Department's report identifies Trichomoniasis as a disease that has been recently identified in NSO carcasses (CDFG 2012b) but which requires more analysis prior to understanding the disease or its impact on the species. (Evaluation report, page 11.) While the petition suggests certain correlations regarding predation and disease impacts to NSO, the Department's report concludes that, in the absence of research specific to diseases and predation effects in California, the scientific uncertainty limits conclusions regarding the importance of these factors in affecting the viability of NSO populations without further evaluation. (Evaluation report, page 11.)

Much of the information included in the petition supporting the degree and immediacy of threat was derived from studies conducted outside of California. However, the Department's report points out that, while the magnitude and mechanisms of the threats may differ between California and other portions of the NSO's range, the non-California studies provide useful information regarding potential in-state threats. (Evaluation report, page 11.)

Comments received from the Sustainable Forest Action Coalition raise the threat of fire and state that "[w]ithout the flexibility to properly manage our public and private forest land, our state faces even more issues that are at least as or more critical than this current NSO issue...Allowing management on these forest lands is our only hope for reduction in size, number and intensity of wildfires...It is common that these fires are destroying more NSO, Goshawk, fisher and other

species habitat than has ever been impacted by proper forest management.” (4/11/13 letter to FGC, page 2.)

Comments received from the Sierra Club’s Mother Lode Chapter list “habitat loss due to aggressive logging practices, competition from the barred owl, and the absence of species recovery efforts” as threats “heavily impact[ing]” NSO. (4/15/13 letter to FGC, page 1.) Comments received from Forests Forever assert that “[c]oupled with continued habitat loss is the very significant threat posed by the barred owl, which displaces [NSO] and thrives in the highly fragmented and simplified industrial forest landscapes.” (7/19/13 letter to FGC, page 1.)

## 6. Existing Management Efforts:

The petition (pages 19-23) asserts that there are overall regulatory and management inadequacies between federal lands, non-federal lands, and within each U.S. state within the NSO’s range. The petition points to the inadequacy of federal protections to stop declines in NSO populations in California, noting that the NSO population has not stabilized since the 1990 Federal Endangered Species Act (ESA) listing in spite of the protections afforded by the Northwest Forest Plan (NWFP) (Davis et al. 2011, USFWS 2011a). The Petition concludes that this is due to insufficient protections and a lack of recovery planning outside of late-successional reserves established on federal lands by the NWFP (page 19).

The petition cites DellaSala 2011 for the proposition that management deficiencies occur in the following areas:

- (a) variable and often inadequate protection given to owls and owl habitat;*
- (b) lack of landscape-scale planning, especially on non-federal lands;*
- (c) use of survey protocols and other standards that fail to incorporate current relevant science;*
- (d) prevalence of discretionary guidelines and/or unclear or unsuitable direction;*
- (e) failure to consistently require involvement of personnel with biological expertise in evaluating/assessing ecological information. (page 19.)*

The Department’s report explains that, while it conducted “take” consultations of all THPs until June 1999, its involvement in biological assessment and evaluation for the species in THP review has been limited in the last few years. Subsequently, the U.S. Fish and Wildlife Service (USFWS) picked up the work until about spring 2008, when the California Department of Forestry and Fire Protection (CAL FIRE) began reviewing THPs following USFWS guidelines and supported by technical assistance from USFWS regarding specific plans and issues. Beginning January 1, 2013, the Department will resume full participation in the THP review process. (Evaluation report, page 12.)

The petition asserts that NSO’s federal threatened designation under ESA, which prohibits all non-permit take, is insufficient to ensure the long-term survival of NSO in California (page 19). The Department’s report indicates that the USFWS has issued survey guidance, including updates (most recently, USFWS 2011b) to identify situations where a development project may take an NSO. (Evaluation report, page 12.)

The Department’s revised report indicates that NSO is currently designated a species of special concern in California, and governmental entities and land managers are required to evaluate any potential impacts to native biological resources during CEQA review. Projects that have the



potential to impact NSO are required to comply with the California Environmental Quality Act (CEQA) or an equivalent Certified Regulatory Program such as the Forest Practices Act. (Evaluation report, pages 12-13.) To comply with CEQA dictates, projects must avoid “take” under the federal ESA and must be developed to identify and mitigate significant direct and cumulative significant impacts. CAL FIRE has also developed guidance specific to California to avoid take of NSO by timber harvest (CALFIRE 2012). (Evaluation report, page 13.)

Comments received from Green Diamond Resource Company (GDRCo) assert that “[e]xisting management efforts to protect and conserve the NSO in California have been and continue to be effective because of the direct requirements of the ESA, and because of the response of the State of California and landowners to the federal ESA listing of the NSO that has been in place for over 20 years.” (4/12/13 letter to FGC, page 3.) GDRCo additionally states that “listing of the NSO under the CESA will not improve on the existing procedures and standards for the protection and conservation of NSO that apply to federal actions and state and local projects in California,” however, such a listing “does have the potential to interfere with existing conservation efforts dedicated to NSO in California” by interfering with the implementation of habitat conservation plans. (4/12/13 letter to FGC, page 5.) Comments received from the CFA laud “California’s robust regulatory process” which ensures that timber harvesting plans “contain provisions for the protection of NSO individuals, nests, related activity centers, and the surrounding forest habitat.” (4/12/13 letter to FGC, page 2.)

Comments received from the Sierra Club’s Redwood Chapter assert that, “[a]lthough listed as ‘threatened’ under the federal ESA for more than 20 years, [NSO] populations continue to decline, with an acceleration of the trend in recent years. In California, vast areas that once offered prime habitat no longer support any [NSO] at all. Relentless habitat loss, competition from the invasive barred owl, and inadequate regulatory mechanisms are combining to push this species ever closer to extinction.” (4/10/13 letter to FGC, page 1.) Comments received from Forests Forever cite the “inadequacy of regulatory mechanisms, especially the lack of recovery efforts on state and private lands,” for the conclusion that “[w]ithout CESA protections, a more holistic view of species recovery and landscape-scale conservation that includes private and state owned lands, the [NSO] is likely to go extinct in the foreseeable future.” (4/11/13 letter to FGC, page 1.) Forests Forever additionally states that “[t]he heavy reliance on fragmented reserves on federal lands without a comprehensive approach to [NSO] conservation on non-federal lands has proven to be a critical error, and one of the primary reasons why recovery has failed.” (7/19/13 letter to FGC, page 1.)

#### IV

#### FINAL DETERMINATION BY COMMISSION

The Commission has determined and hereby finds based on its administrative record of proceedings that there is sufficient scientific information to indicate that listing NSO as endangered or threatened may be warranted. In making this determination, the Commission finds its administrative record includes sufficient scientific information to lead a reasonable person to conclude there is a substantial possibility that the listing could occur. In short:

- Data indicates the NSO population trends in California may be in decline and warrant further examination to determine the extent of the decline in terms of the threat of extinction;

- Information indicates the loss of suitable habitat from either timber management activities, catastrophic wild fires, or both may be a threat to the northern spotted owl across its entire range. Again, however, further examination of the loss of suitable habitat is warranted to assess the impacts of, among other things, timber harvest activities in California for direct, indirect, and cumulative effects to northern spotted owl populations;
- Information indicates that another threat to the northern spotted owl in California may be increased competition by the barred owl (*Strix varia*). Evidence indicates barred owls may pose a threat to northern spotted owls due to competition for breeding and foraging habitats, and the associated significant negative effects on northern spotted owl reproduction and survivorship; and
- Disease and effects of climate change on habitat are uncertain, but pose potential new threats to the northern spotted owl in California that also merit further consideration to assess existing science regarding the species' status in California.

Fish and Game Commission

Dated: December 11, 2013

Sonke Mastrup  
Executive Director

**Commissioners**  
**Michael Sutton**, President  
Monterey  
**Richard Rogers**, Vice President  
Santa Barbara  
**Jim Kellogg**, Member  
Discovery Bay  
**Jack Baylis**, Member  
Los Angeles  
**Jacque Hostler-Carmesin**, Member  
McKinleyville

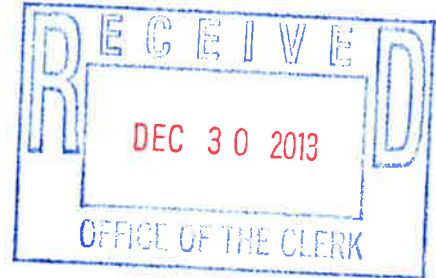
STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

## Fish and Game Commission



**Sonke Mastrup**, Executive Director  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
(916) 653-5040 Fax  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

December 24, 2013



TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a Notice of Findings regarding the American pika which will be published in the California Regulatory Notice Register on December 27, 2013.

Sincerely,

  
Sheri Tiemann

Associate Governmental Program Analyst

Attachment

**NOTICE OF FINDINGS**  
**American pika**  
**(*Ochotona princeps schisticeps*)**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), at its May 22, 2013 meeting in Los Angeles, California, made a finding pursuant to Fish and Game Code section 2075.5, that the petitioned action to add the American pika (*Ochotona princeps schisticeps*) to the list of threatened or endangered species under the California Endangered Species Act (CESA)(Fish & G. Code, § 2050 et seq.) is not warranted. (See also Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1).)

NOTICE IS ALSO GIVEN that, at its December 11, 2013, meeting in San Diego, California, the Commission adopted the following findings outlining the reasons for its rejection of the petition.

**I.**  
**BACKGROUND AND PROCEDURAL HISTORY**

**Petition History**

The Center for Biological Diversity (Petitioner) submitted a petition to the Commission on August 21, 2007, to list the American pika (*Ochotona princeps*) as a threatened species, pursuant to CESA. As an alternative, the Petitioner asked that the Commission list each of the then recognized five subspecies of the American pika occurring in California as, variously, either endangered or threatened species. The Commission received the petition on August 22, 2007. The Commission referred it for evaluation to the Department on August 30, 2007. On September 12, 2007, the Department asked the Commission to grant the Department an additional 30 days, for a total 120 days, to evaluate the petition pursuant to Fish & Game Code section 2073.5. On October 19, 2007, the Commission granted this request.

The Department evaluated the petition, using the information in that document and other relevant information available at that time, and found that the scientific information presented in the petition was insufficient to indicate that either of the petitioned actions may be warranted. That is, the Commission found in its independent judgment at the time that the petition did not provide sufficient scientific information to indicate that the following actions may be warranted: 1) State listing of the pika as a threatened species, or 2) State listing of any of the five subspecies of the pika occurring in California as, variously, either endangered or threatened species. The Department's review of additional scientific information supported these findings. The Department recommended in its December 21, 2007, evaluation report to the Commission, pursuant to Fish and Game Code section 2073.5, subdivision (a), that the Commission reject the petition.

On April 10, 2008, the Commission determined that the petition provided insufficient information to indicate the petitioned action may be warranted. On June 24, 2009, the Commission set aside its April 10, 2008 decision, and again determined that the petition did not provide sufficient information to indicate the petitioned action may be warranted. The Petitioner challenged the Commission's actions on both occasions in related litigation. As a result of the litigation, the Commission reconsidered Petitioner's petition to list the American pika as threatened or endangered under CESA, including a new submission by Petitioner dated May 15, 2009. The Commission treated the petition, including Petitioner's new submission, as an amended petition pursuant to Fish and Game Code section 2073.7, and also determined the amendment to be substantive. At its February 3, 2011 meeting, the Commission transmitted the amended petition to the Department for review.

The Petitioner submitted another comment letter to the Commission on March 31, 2011. The Commission voted at its May 4, 2011, meeting that the March 31, 2011, letter submitted by the Petitioner amounted to yet another substantive amendment of the petition. The Commission indicated in a memorandum to the Department dated May 13, 2011, that the Department's evaluation report should be submitted to the Commission on or before August 2, 2011. On June 27, 2011, the Department requested that the Commission grant the Department an additional 30 days, for a total 120 days, to evaluate the amended petition, pursuant to Fish and Game Code section 2073.5, subdivision (b). On August 3, 2011, the Commission granted this request.

The Department submitted its initial evaluation of the amended petition to the Commission on August 23, 2011, with a recommendation to reject the petition. At the October 19, 2011, Commission meeting, the Department presented a summary of its evaluation of the petition. At that meeting, the Department Director presented a new recommendation to the Commission, indicating the Commission should accept the petition, designate the American pika as a candidate species under CESA, and direct the Department to conduct a 12-month review of the status of the species in California. The Commission voted to accept the petition based on its determination that there was sufficient information to indicate that the petitioned action may be warranted. On November 11, 2011, the Commission published notice of its findings to accept the amended petition for further review under CESA, as well as notice of the American pika's designation as a candidate species under State law (Cal. Reg. Notice Register 2001, No. 45-Z, p. 1826). With related notice of its candidacy, the CESA prohibition against unauthorized "take" of the American pika is currently in effect. (Fish & G. Code, § 2080, 2085).

Consistent with the Fish and Game Code and controlling regulation, the Department commenced a 12-month status review of the American pika following published notice of its designation as a candidate species under CESA. As part

of that effort, the Department solicited data, comments, and other information from interested members of the public, and the scientific and academic community; and the Department submitted a preliminary draft of its status review for independent peer review by a number of individuals acknowledged to be experts on the American pika, possessing the knowledge and expertise to critique the scientific validity of the report. (Fish & G. Code, §§ 2074.4, 2074.8; Cal. Code Regs., tit. 14, § 670.1, subd. (f)(2).) The effort culminated with the Department's final Status Review of the American pika (*Ochotona princeps schisticeps*) in California (February 25, 2013) (Status Review), which the Department submitted to the Commission at its meeting in Santa Rosa, California, on April 17, 2013. The Department recommended to the Commission based on its Status Review and the best science available to the Department that designating the American pika as a threatened or endangered species under CESA is not warranted. (Fish & G. Code, § 2074.6; Cal. Code Regs., tit. 14, § 670.1, subd. (f).) Following receipt, the Commission made the Department's Status Review available to the public, inviting further review and input. (*Id.*, § 670.1, subd. (g).)

On May 22, 2013, at its meeting in Los Angeles, California, the Commission considered final action regarding the Center's petition to designate American pika as an endangered or threatened species under CESA. (See generally Fish & G. Code, § 2075.5; Cal. Code Regs., tit. 14, § 670.1, subd. (i).) In so doing, the Commission considered the petition, as amended, public comment, the Department's 2008 Candidacy Evaluation Report, the Department's 2013 Status Review, and other information included in the Commission's administrative record of proceedings. Following public comment and deliberation, the Commission determined, based on the best available science, that designating American pika as an endangered or threatened species under CESA is not warranted. (Fish & G. Code, § 2075.5(1); Cal. Code Regs., tit. 14, § 670.1, subd. (i)(2).) At the same time, the Commission directed its staff in coordination with the Department to prepare findings of fact consistent with the Commission's determination for consideration and ratification by the Commission at a future meeting.

### **Species Description**

The American pika is a small mammal in the Order Lagomorpha. Until recently, the American pika was considered to consist of 356 subspecies belonging to five distinct evolutionary lineages. The five formerly recognized California subspecies are now regarded as one subspecies, *Ochotona princeps schisticeps*. The American pika occurs in most of the western United States and the Canadian provinces of Alberta and British Columbia. In California, it is found from the Oregon border south through the Cascade region to Tulare and Inyo counties in the Sierra Nevada. The American pika inhabits the range above the

mid-montane conifer belt in California's Sierra Nevada and other high elevation mountain ranges. Although often considered to be rare below 2,500 m elevation in California, American pikas have been reported at multiple locations below that elevation in the southern portion of their range, and in northeastern California they have been found as low as 1,250 m in elevation. The American pika primarily lives in high-elevation patches of talus with adjacent herbaceous or shrub vegetation, as well as in old lava formations.

American pikas are predominantly diurnal, although during hot weather they may adjust their daily activity pattern to avoid excessive heat. American pikas are territorial and their populations in many locations function as meta-populations. Dispersal by American pika from a population is generally believed to be more likely at high-elevation (cooler) sites than at warmer low-elevation sites. The American pika is herbivorous and engages in both feeding and haying (haypiling) while foraging. Haying is the caching of food for later consumption. The American pika harvests herbaceous vegetation or tall grasses for storage in hay piles, which allows them to survive harsh winters.

American pikas behaviorally thermoregulate in response to high ambient temperatures by reducing activity on warm days or during mid-day hours. The American pika does not hibernate but remains active throughout the winter, using cover to abate the effects of extremely cold temperatures and to access stored food. High temperature is a primary factor controlling the initial dispersal success of juveniles, primarily at low-elevation sites. In general, temperatures within the rock matrix of talus fields have been found to be lower and less variable than on the surface of the talus in the summer. Generally, winter temperatures within talus are warmer than the external air.

The population size for the American pika in California is uncertain but, based on the best available scientific information, it appears well-distributed and relatively stable.

### **Federal Status**

The American pika is not currently listed as endangered or threatened nor is it a candidate for listing under the federal Endangered Species Act. In October 2007, the Center petitioned the U.S. Fish and Wildlife Service (Service) to list the American pika and conduct a status review of each of the recognized subspecies of American pika. The Service advised the Center that the petition could not be addressed at that time because existing court orders and settlement agreements for other listing actions required nearly all of the listing funding. Subsequently, the Center filed a notice of intent to sue over the Service's failure to publish a petition finding. The Service then entered into a settlement agreement requiring the Service to submit a petition finding to the Federal Register by May 1, 2009, and to submit a status review finding to the Federal Register by February 1, 2010. On February 10, 2010, the Service published the results of its status review, in which

it concluded that the American pika did not meet the criteria for listing under the federal Endangered Species Act (USFWS 2010). The Service acknowledged that the American pika is potentially vulnerable to the impacts of climate change in portions of its range, but that the best available scientific information indicated that the species will be able to survive despite higher temperatures and that there is enough suitable high elevation habitat to prevent the species from becoming threatened or endangered.

## II. STATUTORY AND LEGAL FRAMEWORK

The Commission has prepared these findings as part of its final action under CESA regarding the Center's petition to designate American pika as an endangered or threatened species under CESA. As set forth above, the Commission's determination that listing American pika is not warranted marks the end of formal administrative proceedings under CESA prescribed by the Fish and Game Code and controlling regulation. (See generally Fish & G. Code, § 2070 et seq.; Cal. Code Regs., tit. 14, § 670.1.) The Commission, as established by the California Constitution, has exclusive statutory authority under California law to designate endangered, threatened, and candidate species under CESA. (Cal. Const., art. IV, § 20, subd. (b); Fish & G. Code, § 2070.)<sup>1</sup>

The CESA listing process for American pika began in the present case with the Center's submittal of its petition to the Commission in September 2007. (Cal. Reg. Notice Register 2007, No. 38-Z, p. 1572.) The regulatory process that ensued is described above in some detail, along with related references to the Fish and Game Code and controlling regulation. The CESA listing process generally is also described in some detail in published appellate case law in California, including

- *Mountain Lion Foundation v. California Fish and Game Commission* (1997) 16 Cal.4th 105, 114-116;
- *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535, 1541-1542;
- *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, 600; and
- *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104, 1111-1116.

The "is not warranted" determination at issue here for American pika stems from Commission obligations established by Fish and Game Code section 2075.5.

---

<sup>1</sup> The Commission, pursuant to this authority, may add, remove, uplist, downlist, or choose not to list any plant or animal species to the list of endangered or threatened species, or designate any such species as a candidate for related action under CESA. (See also Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1)(A)-(C) and (2).) In practical terms, any of these actions is commonly referred to as subject to CESA's "listing" process.



Under this provision, the Commission is required to make one of two findings for a candidate species at the end of the CESA listing process; namely, whether the petitioned action is warranted or is not warranted. Here with respect to American pika, the Commission made the finding under section 2075.5(1) that the petitioned action is not warranted.

The Commission was guided in making this determination by various statutory provisions and other controlling law. The Fish and Game Code, for example, defines an endangered species under CESA as a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease. (Fish & G. Code, § 2062.)

Similarly, the Fish and Game Code defines a threatened species under CESA as a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter. (*Id.*, § 2067.)

Likewise as established by published appellate case law in California, the term "range" for purposes of CESA means the range of the species within California. (*California Forestry Association v. California Fish and Game Commission, supra*, 156 Cal. App.4th at p. 1540, 1549-1551.)

The Commission was also guided in making its determination regarding American pika by Title 14, section 670.1, subdivision (i)(1)(A), of the California Code of Regulations. This provision provides, in pertinent part, that a species shall be listed as endangered or threatened under CESA if the Commission determines that the species' continued existence is in serious danger or is threatened by any one or any combination of the following factors:

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;
4. Competition;
5. Disease; or
6. Other natural occurrences or human-related activities.

Fish and Game Code section 2070 provides similar guidance. This section provides that the Commission shall add or remove species from the list of endangered and threatened species under CESA only upon receipt of sufficient scientific information that the action is warranted. Similarly, CESA provides policy direction not specific to the Commission per se, indicating that all state agencies, boards, and commissions shall seek to conserve endangered and threatened species and shall utilize their authority in furtherance of the purposes

of CESA. (Fish & G. Code, § 2055.) This policy direction does not compel a particular determination by the Commission in the CESA listing context. Yet, the Commission made its determination regarding American pika mindful of this policy direction, acknowledging that “[l]aws providing for the conservation of natural resources’ such as the CESA ‘are of great remedial and public importance and thus should be construed liberally.” (*California Forestry Association v. California Fish and Game Commission*, *supra*, 156 Cal. App.4th at pp. 1545-1546, citing *San Bernardino Valley Audubon Society v. City of Moreno Valley* (1996) 44 Cal.App.4th 593, 601; Fish & G. Code, §§ 2051, 2052.)

Finally in considering these factors, CESA and controlling regulations require the Commission to actively seek and consider related input from the public and any interested party. (See, e.g., *Id.*, §§ 2071, 2074.4, 2078; Cal. Code Regs., tit. 14, § 670.1, subd. (h).) The related notice obligations and public hearing opportunities before the Commission are also considerable. (Fish & G. Code, §§ 2073.3, 2074, 2074.2, 2075, 2075.5, 2078; Cal. Code Regs., tit. 14, § 670.1, subds. (c), (e), (g), (i); see also Gov. Code, § 11120 et seq.) All of these obligations are in addition to the requirements prescribed for the Department in the CESA listing process, including an initial evaluation of the petition and a related recommendation regarding candidacy, and a 12-month status review of the candidate species culminating with a report and recommendation to the Commission as to whether listing is warranted based on the best available science. (Fish & G. Code, §§ 2073.4, 2073.5, 2074.4, 2074.6; Cal. Code Regs., tit. 14, § 670.1, subds. (d), (f), (h).)

### III.

#### FACTUAL AND SCIENTIFIC BASES FOR THE COMMISSION’S FINDING

The factual and scientific bases for the Commission’s finding that designating American pika as an endangered or threatened species under CESA is not warranted are set forth in detail in the Commission’s administrative record of proceedings. The evidence in the administrative record in support of the Commission’s determination includes, but is not limited to, the Department’s 2008 Candidacy Evaluation Report and 2013 Status Review, and other information specifically presented to the Commission and otherwise included in the Commission’s administrative record as it exists up to and including the Commission meeting in Los Angeles, California, on May 22, 2013, and up to and including the adoption of these findings.

The Commission finds the substantial evidence highlighted in the preceding paragraph, along with other evidence in the administrative record, supports the Commission’s determination that the continued existence of American pika in the State of California is not in serious danger of becoming extinct or threatened by one or a combination of the following factors:

1. Present or threatened modification or destruction of its habitat;

2. Overexploitation;
3. Predation;
4. Competition;
5. Disease; or
6. Other natural occurrences or human-related activities.

The Commission also finds that the same evidence constitutes sufficient scientific information to establish that designating American pika as an endangered or threatened species under CESA is not warranted. The Commission finds in this respect that the American pika is not in serious danger of becoming extinct throughout all, or a significant portion, of its range. Similarly, the Commission finds that, although the dynamics and effects of climate change due to global warming are real, the American pika is not presently threatened with extinction and it is also unlikely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by CESA.

The following Commission findings highlight in more detail some of the scientific and factual information and other evidence in the administrative record of proceedings that support the Commission's determination that designating American pika as an endangered or threatened species under CESA is not warranted:

1. The primary threat to the continued existence of the species is considered to be future climate change, which may reduce the area available as suitable habitat for American pika in California. However, some data suggest the American pika may be able to contend with a generally warmer and drier future climate.
2. The species is currently widely distributed in California and is thought to be common where it occurs. Although climate change has occurred and will continue to occur, the American pika has existed in western North America for millennia, during a period characterized by repeated periods of warming and cooling, suggesting the species may be able to persist during projected future changes.
3. The overall population size for the American pika in California is unknown and cannot be accurately determined because of the lack of available data on population numbers, densities, and trends over time across their range. However, resurveys of distribution at historically-occupied pika sites have been conducted in several areas in California, as well as in the Great Basin ranges of Nevada. In California, these studies have found pikas occupying some but not all of the historical sites. More study is necessary to fully understand the American pika's re-colonization behavior of historical sites. A recent meta-analysis of several resurvey projects found that the amount of talus habitat in the vicinity of the historical site had the

strongest ability to predict whether pikas still occupied the site. Elevation was another significant factor, with low elevation sites more likely to have lost pikas than high elevation sites. However, the extent of low elevation talus habitat available to American pika in California is not presently known.

4. The climate modeling studies reviewed by the Commission as part of its analysis of the pika CESA listing petition, as amended, do not typically consider aspects of a species' ecology other than the apparent correlations of species occurrence with (typically) coarse-scale climate variables. Nor do the models consider the capacity of the species to behaviorally or physiologically adapt to different climatic conditions. Additionally, the studies do not consider changes in human adaptation that could influence the model projected climate change. In sum, a number of survey studies on American pikas in California and elsewhere have explored the relationships between pika occurrence and climate variables. Although climate has been implicated in recent loss of pikas from some historically-occupied sites in some studies, other studies have not found such a pattern.
5. Because of the American pika's thermoregulatory characteristics, it has been suggested that several climate change effects could threaten the continued existence of the species, including mortality and stress associated with increasing temperatures; changes in foraging and dispersal behavior; mortality and stress associated with more extreme cold in the winter; changes in nutrient and water availability in forage plants; increased competition or predation; and combined effects of all these factors. However, American pika have been found in low-elevation areas (for example, Lava Beds National Monument) and studies on talus temperatures show ameliorative benefits of the talus ecology for the American pika (warmer in winter, cooler in summer), both of which suggest that American pika may be sufficiently adaptable to rising temperatures to persist despite global warming.
6. Other potential indirect effects on pikas due to climate change, such as how climate change may affect disease dynamics and predator-prey relations are presently unknown. Livestock grazing near talus habitat may affect pika habitat and cause pikas to change their foraging behavior. Mining may disturb or directly injure pikas. However, these potential impacts are not clearly understood.
7. The Commission considered factors such as overexploitation, predation, competition, and disease to not be a serious threat to the American pika currently or in the foreseeable future.

#### IV.

## **ADDITIONAL CONSIDERATIONS INFORMING THE COMMISSION'S FINAL DETERMINATION**

The Commission's determination that designating American pika as an endangered or threatened species under CESA is not warranted is informed by various additional considerations. In general, the Fish and Game Code contemplates a roughly 12-month long CESA listing process before the Commission, including multiple opportunities for public and Department review and input, and peer review specifically whenever possible. (See generally Fish & G. Code, § 2070 et seq.; Cal. Code Regs., tit. 14, § 670.1.) The CESA listing process for American pika, in contrast, is approaching the 7-year mark. This length of time is not unusual compared to other recent CESA listing actions by the Commission.<sup>2</sup> What the length of time does underscore in the present case, however, is the depth, breadth, and complexity of the scientific and legal issues that the Commission has considered in making its final determination regarding American pika. This section highlights some of those issues to more fully document the Commission's final determination in the present case.

From the initial receipt of the Center's petition in August 2007 through the Commission's decision in May 2013 that listing is not warranted, the Commission received numerous comments and other significant public input regarding the status of American pika from a biological and scientific standpoint, and with respect to the petitioned action under CESA, including the listing process generally. Similarly, the Commission received many comments focusing on the current and historical status of American pika throughout all or a significant portion of its range. The Commission also received comments regarding the status of American pika under the federal Endangered Species Act (ESA)(16 U.S.C. § 1531 et seq.). Finally, the Commission received various comments and other important information regarding a number of scientific issues related to the status of American pika in California. The Commission, as highlighted below, was informed by and considered all of these issues, among others, in making its final determination that designating American pika as an endangered or threatened species under CESA is not warranted. (Fish & G. Code, § 2075.5(1); Cal. Code Regs., tit. 14, § 670.1, subd. (i)(2).)

### **SCIENTIFIC DETERMINATIONS REGARDING THE STATUS OF THE AMERICAN PIKA IN CALIFORNIA**

CESA directs the Department to prepare this report regarding the status of the American pika in California based upon the best scientific information. Key to the Department's related analyses are relevant factors highlighted in regulation.

---

<sup>2</sup> For example, with respect to the California tiger salamander, a species recently designated as endangered or threatened under CESA, the Commission received the petition on January 30, 2004, and adopted findings that listing is warranted on May 20, 2010. (See Cal. Reg. Notice Register 2004, No. 9-Z, p. 270; Cal. Reg. Notice Register 2010, No. 23-Z, p. 855).

Under the pertinent regulation, a “species shall be listed as endangered or threatened ... if the Commission determines that its continued existence is in serious danger or is threatened by any one or any combination of the following factors: (1) present or threatened modification or destruction of its habitat; (2) overexploitation; (3) predation; (4) competition; (5) disease; or (6) other natural occurrences or human-related activities.” (Cal. Code Regs., tit. 14, § 670.1 (i)(1)(A)).

Also key from a scientific standpoint are the definitions of endangered and threatened species, respectively, in the Fish and Game Code. An endangered species under CESA, for example, is one “which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease.” (Fish & G. Code, § 2062.) A threatened species under CESA is one “that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of special protection and management efforts required by [CESA].” (Id., § 2067.)

#### **Present or Threatened Modification or Destruction of Habitat**

Projections of the effects human-caused climate change would have on the American pika are predicted based on climatic models and models of future habitat extent. These models indicate a possible reduction in the amount of suitable habitat for the American pika in California by the end of this century (2100). However, some of the models that predict American pika habitat failed to predict currently occupied habitat. Alternatively, some of the reduction in climatically suitable habitat conditions for the American pika in California may be ameliorated by behavioral and physiological mechanisms. In summary, the best available scientific information suggests a substantial reduction in the geographic range of the American pika in California could occur by 2100, but the effect on the species’ future existence at that time is currently uncertain. A generally warming climate with more extreme weather conditions may have several impacts to American pika populations, including reduced opportunities for successful dispersal between habitat islands, reduced overwinter survival (reduced winter snowpack will reduce insulation cover and create harsher winter conditions or, conversely, heavier snowpack from extreme winters could delay spring emergence of forage vegetation), and these factors may interact with others to increase population impacts. There is significant, current uncertainty about the degree of continued warming and the effect of this continued warming on the ability of the American pika to persist in California during and after the timeframe current modeling suggests climate change may pose a significant threat to the species (2100 and after). In short, the Commission considers future habitat impacts of projected climate change may be a threat to the continued existence of the American pika in California by the end of the century, but not

until then at the earliest based on the best scientific information currently available.

### **Overexploitation**

The American pika in California is designated as a nongame mammal, and therefore may not be legally taken. (See, e.g., Cal. Code Regs., tit. 14, § 472). There is no indication that American pikas have been harvested for recreational or commercial purposes. A few individual American pikas have been captured over the past several years for research purposes; only one mortality from these studies has occurred. The Commission determines based on the best scientific information available, there is not a threat to the species' continued existence due to overexploitation.

### **Predation**

American pikas are subject to predation by a variety of native predators and are adapted to contend with predation pressure by several characteristics, such as vigilant behavior, central-place foraging with good escape cover, and relatively moderate reproduction rate. It is possible climate change may affect the predator-prey relationships for the pika, either by allowing additional predator species to move into areas occupied by the pika or by negatively impacting some current pika predators by altering their preferred prey. Climate change may force individual pikas to contend with greater predation risk while foraging or dispersing, or may relieve them of some predation risk. The Department concluded, and the Commission so finds, that the effects of predation as a threat to pika populations are uncertain, as are any climate change change-induced effects on predation, to American pikas. There is not sufficient scientific evidence to indicate that predation is a current threat to the continued existence of the species in California or that it will be in the foreseeable future

### **Competition**

The Commission does not consider native competitors to the American pika in California to be a threat to the continued existence of the species. However, climate change may allow additional competitor species to move into areas occupied by the American pika and to impact those American pika populations. Additional or new competitors may reduce the fitness of individual pikas and reduce the viability of American pika populations where the competitors invade. However, it is also possible that some native competitors will be adversely affected by climate change, thus relieving American pikas of some competition from these species. The Department concluded, and the Commission so finds, that the effect and magnitude of climate change on species competition with American pikas are currently unknown. There is not sufficient, current scientific evidence to indicate that competition is a threat to or that it will be a threat in the foreseeable future to the continued existence of the American pika in California.

## **Disease**

Diseases occur naturally in American pika populations. Health assessments of American pika populations in California are just beginning. As with the other factors, however, it is possible that climate change may facilitate the transmission or increase the virulence of diseases currently endemic in American pika populations. The Commission could not currently determine the magnitude of the risks to pika populations from disease, nor from the interaction of climate change and disease. The best scientific information available to the Department and the Commission from disease studies in other pika populations suggests this factor is not currently a threat nor will it be a threat in the foreseeable future to the continued existence of the species in California.

## **Other Natural Occurrences or Human-related Activities**

The Commission does not consider mining or grazing to be significant threats to the continued existence of the American pika in California. Other human-related activities contribute to global climate change (e.g. fossil fuel emissions, land use practices, agricultural practices), and therefore indirectly threaten American pika populations in California through the habitat, competition, predation, and disease pathways discussed above. Most human-related (anthropogenic) contributions to global climate change are projected to increase in the future. The Commission finds that anthropogenic contributions to climate warming may pose a threat to the species by the end of the 21<sup>st</sup> century, but that the species is not currently in serious danger of becoming extinct throughout all or a significant portion of its range in California and the same is true of the foreseeable future.

## **Summary of Key Findings**

Based on the criteria described above, the best scientific information available to the Commission indicates the American pika is not currently in serious danger of becoming extinct in California in the next few decades, nor at any time by the end of the century even if existing climate change models and the currently predicted trajectory of suitable pika habitat in California comes to fruition at that time. At the present time, in contrast, the species is widespread through its known range in California and the uncertainty of the models precludes the ability of the Commission to categorically know or state the danger of the threat to the species. Models predict reduction in American pika habitat and therefore populations, distribution, and abundance, but not extinction.

It will be imperative for the Department and for the conservation community to study and monitor the distribution and abundance of the American pika over the next few decades, and as climate change models become more data driven, to be able to better assess the foreseeable future. Such monitoring will ultimately inform the Department from a scientific basis whether the American pika is



trending toward a serious danger of becoming extinct, or not. In that regard, the Department has made a number of future management recommendations, including:

- Habitat-specific demographic information for the American pika, as per Kreuzer and Huntly (2003), should be collected by the Department and its partners. Such studies would inform conservation planning for the American pika by allowing better evaluation of habitat areas needing protection, as well as adaptation planning for climate change.
- Comprehensive genetic studies of American pika populations in California and adjacent states should be conducted to provide a better understanding of the genetic structure of the *schisticeps* subspecies. Such information is essential for conservation planning.
- Research and consider implementing management activities that would ensure that American pika populations persist despite projected climate change impacts.
- Continue and expand monitoring efforts for pika populations and their habitat as part of comprehensive climate change monitoring and adaptation planning for high-elevation small mammal communities in California.<sup>3</sup>
- Assess and recommend measures to reduce potential significant impacts to American pika populations associated with activities such as mining and livestock grazing, as part of the environmental review process for such projects.
- Assess the greenhouse gas emissions associated with proposed projects and activities reviewed under the California Environmental Quality Act. Such assessments and associated recommendations should be made by the Department as part of its general approach to the issue of climate change.
- Adaptation planning for climate change impacts on California's wildlife is an on-going task of the Department. See the California Climate Change

---

<sup>3</sup> The Department, along with federal and academic partners, led the formation in 2009 of the California Pika Consortium (CPC). The CPC consists of pika researchers, wildlife and land management agency representatives, and non-government organization members with its major purpose of facilitating communication on issues related to the American pika and other high-elevation small mammals in California. The group has generally met once or twice a year since its first meeting in 2009 to share information, prioritize research topics, discuss standardized field techniques, and to visit natural and human-made pika sites in the eastern Sierra Nevada and western Great Basin. The CPC served as the model for the formation of the North American Pika Consortium (NAPC), which pursues similar goals throughout the geographic range of pikas in North America; CPC members are actively engaged with NAPC activities. These two organizations provide a forum for discussions of American pika biology, conservation, and adaptation planning. The Department will continue to rely on the CPC for information related to the American pika.

Adaptation Strategy (California Natural Resources Agency 2009 and DFG's Vision Document, DFG Climate Science Web Page) for more information. The Department, along with its diverse group of stakeholders, is also actively working to address climate change adaptation actions for fish, wildlife, and habitats across the state. Integrating climate change considerations into Department functions, management activities, and conservation planning efforts such as the state Wildlife Action Plan, are serious undertakings by the Department that have placed it on the path towards successfully addressing climate change and the many challenges it presents.

- Complete the Mammal Species of Special Concern update to determine whether the American pika should be designated as a Species of Special Concern.<sup>4</sup> Conduct the follow-up climate-change analysis for the American pika and other at-risk mammal taxa currently funded by a State Wildlife Grant. Depending on the results of these analyses, the American pika may be among those species prioritized for additional research and monitoring if funding is available.

---

<sup>4</sup> "Species of Special Concern" (SSC) is a Department administrative designation intended to alert biologists, land managers, and others to a species' declining status and to encourage them to afford these species additional management consideration. SSCs are defined as species, subspecies, or distinct populations of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria: is extirpated from the State or, in the case of birds, in its primary seasonal or breeding role; is listed as federally-, but not State-, threatened or endangered; meets the State definition of threatened or endangered but has not been formally listed; is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status (Comrack et al. 2008).

The Mammal Species of Special Concern (MSSC) list had been in a state of ad hoc revision since the list was established in 1986 (Williams 1986). The American pika is not currently designated as an MSSC. The MSSC list is now undergoing a formal update and revision using an objective, criterion-based method developed by the Department (see Shuford and Gardali 2008 for a recent published example of the current method). As part of the update process, the American pika is being evaluated, scored, and ranked using eight criteria along with all other mammalian taxa naturally occurring in California. It is too early in the evaluation process to ascertain whether the American pika will be on the updated MSSC list. Additional evaluation of climate change impacts to California mammals, including the American pika, will be made in a follow-up analysis for the MSSC project.

Finally, the issues highlighted in this section represent only a portion of the complex issues aired and considered by the Commission during the CESA listing process for American pika. The issues addressed here in these findings represent some, but not all of the information, issues, and considerations affecting the Commission's final determination. Other issues aired before and considered by the Commission are addressed in detail in the Commission's administrative record of proceedings.

**V.  
FINAL DETERMINATION BY THE COMMISSION**

The Commission has weighed and evaluated all information and inferences for and against designating American pika as an endangered or threatened species under CESA. This information includes scientific and other general evidence in the Center's 2007 petition, as amended, the Department's 2008 Candidacy Evaluation Report and 2013 Status Review, and the Department's related recommendations based on the best available science, written and oral comments received from members of the public, various public agencies, and the scientific community; and other evidence included in the Commission's administrative record of proceedings. Based upon the evidence in the administrative record the Commission has determined that the best scientific information available indicates that the continued existence of American pika in California is not in serious danger or threatened in the foreseeable future by present or threatened modifications or destruction of the species' habitat, overexploitation, predation, competition, disease, or other natural occurrences or human-related activities; stated another way, the Commission did not find sufficient evidence of endangerment at this time. (See generally Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1)(A); Fish & G. Code, §§ 2062, 2067.) The Commission finds for the same reason that there is not sufficient scientific information at this time to indicate that the petitioned action is warranted. (See *Id.*, § 2070.) The Commission finds, as a result, that designating American pika as an endangered or threatened species under CESA is not warranted and that, with adoption of these findings, American pika for purposes of its legal status under CESA shall revert to its status prior to the filing of the Center's 2007 petition. (*Id.*, § 2075.5(2); Cal. Code Regs., tit. 14, § 670.1, subd. (i)(2).)

Fish and Game Commission

Dated: December 11, 2013

Sonke Mastrup  
Executive Director



**OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS**

**REGULAR AGENDA REQUEST**

Print

**MEETING DATE**      January 7, 2014

**TIME REQUIRED**

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

**SUBJECT**              Mono City Fire Protection District

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Letter dated 12/14/13 from the Mono City Fire Protection District pledging a maximum of \$25,000 for use exclusively in calendar year 2014 for work performed on the Mono City Emergency Road.

\*\*\*\*\*

**RECOMMENDED ACTION:**

**FISCAL IMPACT:**

**CONTACT NAME:** Shannon Kendall

**PHONE/EMAIL:** x5533 / skendall@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
***PRIOR TO 5:00 P.M. ON THE FRIDAY  
32 DAYS PRECEDING THE BOARD MEETING***

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

**ATTACHMENTS:**

Click to download

[MCFPD](#)

**History**

Time	Who	Approval
12/16/2013 3:04 PM	Clerk of the Board	Yes

**Mono City Fire Protection District  
P.O. Box 156  
1057 Peeler Lake Drive  
Lee Vining, CA 93541**

December 13, 2013

Mono County Board of Supervisors  
P.O. Box 715  
Bridgeport, CA 93517

**Re: Mono City Emergency Road**

Dear Board of Supervisors:

The Commissioners of the Mono City Fire Protection District, on behalf of the entire community of Mono City, have voted unanimously to join Mono County in the funding of the emergency/fire escape road. The location and features of this emergency road (referred to as Fire Station Alternative) are described in the BLM environmental assessment (DOI-BLM-CAC-070-2013-0025-EA.)

The Mono City Fire Protection District pledges a maximum of \$25,000 (twenty five thousand dollars) for use exclusively in calendar year 2014 for work performed on the road. The money is offered on the following conditions: 1) the money is to be used only for "on the ground" work to complete the road development. Examples of the type of work that this money may be applied toward include construction of road turnouts; purchase and installation of gates; construction of the segment of road necessary to connect from the community well to the emergency road; road surface compaction. The money may not be used for administration, legal fees, maintenance of equipment and/or acquisition of equipment, and other similar expenditures; 2) the money is offered on the condition that the emergency road must be in a useable condition by the end of calendar year 2014, with all construction work completed. For purposes of this offer, the emergency road will be deemed completed for purposes of payment of the \$25,000 pledge to Mono County, if the road construction is completed and the road is useable, even if construction of an apron at Hwy. 167 has not occurred.

The money being offered is Mono City Fire Protection District savings of its annual allotment from the Mono County Fire Chief's Fund. There are many important items that the Mono City Fire Department needs to upgrade its equipment, but the Commissioners believe that completion of the emergency road is of highest priority. We pledge this \$25,000 to demonstrate the seriousness of the community's need for this emergency only ingress/egress road to Mono City.

If you have any questions please contact Commission Chair Randy DesBaillets at (760) 914-1918. We look forward to discussing this offer with you, and working with Mono County to ensure completion of the emergency road during calendar year 2014.

Sincerely,

Commissioners of  
Mono City Fire Protection District

*NOT AVAILABLE  
Randy DesB  
12-13-13*

---

Dave Carle  
[carle@qnet.com](mailto:carle@qnet.com)

*Randy DesBaillets*  
Randy DesBaillets  
[randydes@schat.net](mailto:randydes@schat.net)  
(760) 914-1918  
*12-13-13*

*Jack Shipley Dec. 13, 2013*  
Jack Shipley

*Barbara Wanner 12-13-13*  
Barbara Wanner

Cc:  
Jim Leddy, Mono County CAO  
Marshall Rudolph, Mono County Counsel  
Jeff Walters, Public Works  
County Auditor-Controller



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: County Counsel**

**TIME REQUIRED** 15 minutes (10 minute presentation; 5 minute discussion) **PERSONS APPEARING BEFORE THE BOARD** Stacey Simon

**SUBJECT** Letter to State Water Resources Control Board regarding Petitions for Temporary Transfer of Water Rights

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Letter to California State Water Resources Control Board regarding Petitions for Temporary Transfer and Change to water rights licenses 6000 and 9407 filed by the Walker River Irrigation District related to its stored water leasing program.

### RECOMMENDED ACTION:

Approve and authorize Chair to sign letter.

### FISCAL IMPACT:

None.

**CONTACT NAME:** Stacey Simon

**PHONE/EMAIL:** 760-924-1704 / [ssimon@mono.ca.gov](mailto:ssimon@mono.ca.gov)

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR **PRIOR TO 5:00 P.M. ON THE FRIDAY 32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

State Water Resources Control Board  
Division of Water Rights  
Attn: Kate Gaffney  
P.O. Box 2000  
Sacramento, CA 95812-2000

### MINUTE ORDER REQUESTED:


YES  NO

### ATTACHMENTS:

Click to download

[Staff Report](#)

[Proposed Letter](#)

 [Board's 4.16.13 Letter to SWRCB](#)

 [WRID response to comments](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
12/30/2013 2:59 PM	County Administrative Office	Yes
12/30/2013 8:52 AM	County Counsel	Yes
12/30/2013 3:07 PM	Finance	Yes



**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
Christian Milovich  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415  
MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700

**Facsimile**  
760-924-1701

**Legal Assistant**  
Jenny Senior

To: Board of Supervisors

From: Stacey Simon

Date: January 7, 2014

Re: Letter to the California State Water Resources Control Board regarding Petitions for temporary transfer of water rights filed by the Walker River Irrigation District

**Recommendation**

Approve and authorize Chair to sign letter. Provide any desired direction to staff.

**Fiscal Impact**

None.

**Discussion**

In February of 2013, the Walker River Irrigation District (the "District") filed two petitions for temporary transfer and change of storage water rights with the California State Water Resources Control Board ("SWRCB" or "State Board") related to its implementation of the Walker River Water Leasing Demonstration Program. The water that is the subject of the petitions is annually stored in Bridgeport and Topaz reservoirs in Mono County. The petitions ask, among other things, for the place of use of such water to be transferred from agricultural lands within Nevada, to Walker Lake.

As a part of the State Board's consideration of the petitions, the Board of Supervisors provided a comment letter indicating that -- while the County is generally supportive of proposals to lease water within the Walker Basin for use at Walker Lake -- any such program must be implemented in a manner that does not unduly harm environmental, recreational, and economic interests. Specifically, the Board's letter asked the SWRCB to require the District to provide

information regarding the timing of releases from the reservoirs so that the impacts, if any, of the proposed changes could be understood and avoided. That letter is included in your packet for reference. Eight other comment letters, including one from the California Department of Fish and Wildlife expressing similar concerns, were received by the SWRCB.

On November 22, 2013, at the direction of the SWRCB, the District provided a response to the comments received. A copy of that response is also included in your packet.

Unfortunately, the District's response did not substantively address the County's (or Fish and Wildlife's) concerns, instead asserting that since the timing of releases from the reservoirs may be altered essentially at will under current circumstances (i.e., depending on when farmers call for the water), any changes resulting from approval of the change petitions is immaterial and need not be addressed.

The letter proposed for Board consideration today would ask the SWRCB to either reject the District's response as inadequate and require that it instead provide substantive information in response to the County's concerns, or that the SWRCB itself analyze the impacts of the District's proposal and then adequately condition any approval it may grant so that these resources are protected.

If you have any questions regarding this item prior to your meeting, please call me at 924-1704.



Larry Johnston ~ District One    Fred Stump ~ District Two    Tim Alpers ~ District Three  
Tim Fesko ~ District Four    Byng Hunt ~ District Five

---

## **BOARD OF SUPERVISORS COUNTY OF MONO**

---

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517

(760) 932-5538 • FAX (760) 932-5531

*Lynda Roberts, Clerk of the Board*

January 7, 2014

State Water Resources Control Board  
Division of Water Rights  
Attn: Kate Gaffney  
P.O. Box 2000  
Sacramento, CA 95812-2000

**Re:    Petitions for Temporary Transfer and Change, Water Rights Licenses 6000  
      (Application 2221) and 9407 (Application 1389)**

Dear Ms. Gaffney:

Mono County received the response to comments submitted by the Walker River Irrigation District (the "District") on November 22, 2013, related to the above-referenced change applications. Unfortunately, the District's response fails to address the concerns raised by Mono County in its April 16, 2013, letter, and also does not respond to similar concerns expressed by the California Department of Fish and Wildlife in its April 22 letter. A copy of the County's April 16 letter is included again for your reference.

As Mono County has stated previously, it is critical that any change in California water rights licenses affecting stored water in Bridgeport or Topaz Reservoirs -- or the riparian and stream habitats downstream -- be carried out in a manner which avoids unnecessary harm to those resources and fully complies with the State's environmental laws. While the County had hoped that the District would provide the State Board with the information necessary for the Board to understand, analyze, and avoid those impacts (and which in any event is required by applicable law, including Water Code section 1726) -- that has so far not occurred.

The District's suggestion (on pages 10-11 of its letter) that because its farmers are theoretically allowed to call for stored water at any time, any change in the timing of storage or releases from the reservoirs which might result from the change applications is not a change "occasioned by the petitions" is incorrect and ignores the obvious -- that farmers, based on their intended use of and need for the water, actually do call for the water at certain, fairly predictable times.

Clearly the relevant questions to be answered are “when do farmers *actually* call for stored water?” and “How will the changes in place and purpose of use proposed by the change applications alter that timing and affect reservoir levels and instream flows?” The District’s foreboding statement on page 11 of its response that “early drawdown of reservoirs” and “fluctuating releases” can occur now, and its related conclusion that “the Petitions will not alter those facts” reveals the District’s own understanding that such adverse impacts may occur as a result of the change applications it now asks the State Board to approve.

To consider (much less approve) the applications without specific information regarding how the changes would be implemented and the impacts to existing resources, is not acceptable. Accordingly, Mono County respectfully requests that the State Board either reject the District’s response and require it to instead provide meaningful information regarding its proposal, or that the State Board itself conduct the required analysis and develop appropriate conditions of approval which will ensure that the resources of the Walker River Basin are not unnecessarily harmed by the proposed changes.

Thank you for your time and consideration of this letter.

Sincerely yours,  
MONO COUNTY BOARD OF SUPERVISORS

---

Chair of the Board of Supervisors

Encl.

Cc: Walker River Irrigation District  
Ken Spooner  
P.O. Box 820  
Yerington, NV 89447

Gordon DePaoli, Esq.  
Woodburn and Wedge  
6100 Neil Road, Ste. 500  
Reno, Nevada 89511



Larry Johnston - District One    Fred Stump - District Two    Tim Alpers - District Three  
Tim Fesko - District Four    Byng Hunt - District Five

---

## BOARD OF SUPERVISORS COUNTY OF MONO

---

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517

(760) 932-5538 • FAX (760) 932-5531

*Lynda Roberts, Clerk of the Board*

April 16, 2013

State Water Resources Control Board  
Division of Water Rights  
Attn: Kate Gaffney  
P.O. Box 2000  
Sacramento, CA 95812-2000

**Re:    Petitions for Temporary Transfer and Change; Water Rights Licenses 6000 and 9407**

Dear Ms. Gaffney:

Thank you for providing Mono County with an opportunity to comment on the Petitions for Temporary Transfer and Change filed on behalf of the Walker River Irrigation District with respect to water rights licenses 6000 (Topaz Reservoir) and 9407 (Bridgeport Reservoir) (collectively the "Change Petitions").

Mono County is generally supportive of proposals to lease water within the Walker River Basin for the purpose of providing additional inflow to Walker Lake, provided that appropriate protections are in place. Specifically, the County recognizes that the voluntary lease of water within the Walker Basin may provide at least a partial solution to longstanding issues at Walker Lake, which are currently the subject of litigation in the Federal District Court, and that water leasing can provide benefits to the source community not available when water rights are simply purchased.

Consistent with the above, Mono County entered into a Memorandum of Understanding with the National Fish and Wildlife Foundation (NFWF) last year to facilitate environmental review of any future transfer to Walker Lake involving water used for irrigation purposes within Mono County. And the Mono County Resources Conservation District<sup>1</sup> has secured funding to commission a comprehensive review and analysis of water transfers from California to Walker Lake, in order assist future decision makers in understanding the potential impacts.<sup>2</sup>

Similarly, any proposal to change the use of stored water in Bridgeport Reservoir or Topaz Lake must be carefully reviewed and considered – given the significant fishery, wildlife, aesthetic, and other public values afforded by these resources. Such values could be severely and irreversibly impacted if the State Water Board were to approve even a temporary change to Water Rights Licenses 6000 and 9407 without understanding the impacts caused by such a change. To approve a change petition for the purpose of benefitting Walker Lake in Nevada, while causing harm to California's resources within the Walker River Basin, will only undermine efforts to protect Walker Lake, making them synonymous with environmental degradation elsewhere.

---

<sup>1</sup> The Resources Conservation District is a special district and is not a part of Mono County.

<sup>2</sup> This analysis will not include impacts associated with the transfer of stored water (such as proposed in the Change Petitions) and is limited to the impacts of transferring water used for irrigation in Mono County.

With the foregoing in mind, the following are Mono County's specific comments on the Change Petitions filed on behalf of the Walker River Irrigation District for its Stored Water Program.

1. Releases of stored water must be timed so as to avoid negative impacts to water levels, habitat, and recreational values at Topaz Lake and Bridgeport Reservoir.

The Change Petitions do not describe how the timing of releases would be modified pursuant to the leasing program, but do state that changes to the timing of releases "could reduce the quantity of water held in storage." (Petition for Temporary Transfer and Instream Flow Dedication License 9407 (Application 1389), Attachment No. 1, at p. 4.) This statement causes great concern to Mono County.

Both Bridgeport Reservoir and Topaz Lake provide important fish and wildlife habitat and are central to the economic survival of northern Mono County.<sup>3</sup> As previously recognized by the State Water Board, "The East Walker River currently supports two very productive fisheries, one in the Bridgeport Reservoir itself and the other in the East Walker River downstream of the Bridgeport Dam." (*In the Matter of the Complaint by California Trout, Inc. against the Walker River Irrigation District* WR 90-18, at p. 19.)

At least nine different species of fish have been identified within Bridgeport Reservoir and the East Walker: mountain whitefish (*Prosopium williamsoni*), Tahoe sucker (*Catostomus tahoensis*), mountain sucker (*Catostomus platyrhynchus*), Lahontan redband (*Richardsonius egregius*), and tui chub (*Gila bicolor* subspecies), brown trout (*Salmo trutta*), rainbow trout (*Oncorhynchus mykiss*), Sacramento perch (*Archoplites interruptus*), and carp (*Cyprinus carpio*). (See WR 90-18 at p. 20.)

Topaz Lake supports healthy fisheries of both rainbow and brown trout (*Oncorhynchus mykiss* and *Salmo trutta*, respectively).

Of utmost importance to Mono County, and the thousands of visitors who come here to fish and enjoy the natural environment each year, is the maintenance (and, where possible, enhancement) of water levels, habitat, and recreational values at Bridgeport Reservoir and Topaz Lake – as well as downstream in the East Walker River, as discussed below. Accordingly, Mono County respectfully requests that any modification to the District's Licenses for the purpose of carrying out the Stored Water Program be structured to avoid adverse impacts to reservoir elevations and to associated habitat, fishery, and recreational values.

2. It is not clear from the Change Petitions how stream habitat and fisheries downstream from Bridgeport Reservoir and Topaz Lake will be affected. The State Board should require additional information from the District regarding these impacts so that it may ensure that the proposed temporary changes do not adversely affect fish, wildlife, or other instream beneficial uses.

Water Code section 1726 requires a Petitioner seeking a temporary water right change to describe the changes in water storage and timing that are likely to occur as a result. The information provided must be of sufficient depth and detail to enable the Board to determine whether the proposed temporary change would "unreasonably affect fish, wildlife, or other instream beneficial uses." (Water Code § 1727.) Governing regulations provide further detail on these requirements, specifying that the petition must include, among other things: "the existing and the proposed diversion, release and return flow schedules if stored water is involved or if the streamflow regime will be changed" and "[i]nformation identifying any effects of the proposed change(s) on fish, wildlife, and other instream beneficial uses." (23 CCR § 794(a).)

---

<sup>3</sup> See web page printouts provided with this letter which highlight fishing opportunities at Topaz Lake, Bridgeport Reservoir and in the East Walker River, as merely two examples of the importance of these resources to Mono County.

The Change Petitions do not provide this information.<sup>4</sup> General statements such as “the instream flows provided by the District *could* reduce the quantity of water held in storage;” “these releases *would increase flows* downstream to Walker Lake during the transfer period;” and “the flow in the East Walker River . . . will increase by *up to 25,000 AF* during the period of the transfer over what would have occurred absent the proposed transfer,” (Attachment No. 1 to Change Petition at pp. 3-4, emphasis added) simply do not contain the data needed by the State Board, or interested parties, to understand the possible impacts of the proposed changes, much less ensure that they do not unreasonably affect fish, wildlife, or other instream beneficial uses.<sup>5</sup>

Finally, while the District indicates that, for Bridgeport, it will follow the approved Operations Manual,<sup>6</sup> and “develop and operate a schedule of releases . . . that will be coordinated with the Chief Deputy Water Commissioner under the Walker River Decree and other entities, including NFWF,” it is unclear how such coordination will ensure protection of California’s valuable natural resources. Moreover, to Mono County’s knowledge, there is no operations manual for Topaz Lake and, accordingly, even less is known of the realm of possible variations to flow regimes and lake levels at Topaz.

Clearly additional information is needed from Petitioner before the Board may undertake informed consideration and review of the Change Petitions. And any schedule of releases should be developed in coordination with the California Department of Fish and Wildlife,<sup>7</sup> Mono County, and other interested parties in California.

3. Additional time required by the State Water Board to obtain needed information will not result in undue delay in implementation of the Stored Water Program.

In addition to approval from your Board, the District must obtain approval from the Nevada State Engineer and the United States District Court for the Northern District of Nevada prior to implementing the Stored Water Program. (See United States Board of Water Commissioners Administrative Rules, as Amended June 3, 1996, the “Administrative Rules,” Articles V-VII.) The processes before each agency (and the court) allow for protest, hearing, and appeal. (See *id.*) And, in addition to administrative and court approvals, the District and NFWF must still agree to a price to be paid for leased water (a discussion which has been ongoing for more than a year), solicit stored-water rights holders interested in participating in the program, and negotiate and execute individual leases with those persons. Accordingly, it is highly unlikely (if not impossible) that the Program will be capable of implementation during the 2013 irrigation season (which is already underway), regardless of any time it may take your Board to obtain the information and specificity it needs to ensure that California’s resources are not unreasonably impacted.

Further, the District itself has spent more than four years developing the proposal it now asks the State Board to approve in an expedited manner. Congress established the Walker Basin Restoration Program and allocated twenty five million dollars (\$25,000,000) to the District to administer and manage the leasing program in 2009. (See P.L. 111-85.) It has taken since 2009 for the District’s membership and governing board to agree on the specifics of the leasing program, enter into a grant agreement with NFWF governing the program’s terms and, ultimately, to put forward the Change Petitions it now seeks to have your Board approve.

---

<sup>4</sup> Indeed, lacking this required information, it is somewhat surprising to Mono County that the Board has accepting the Change Petitions for filing. (See 23 CCR §794 (d): “The petitions for change(s) will not be accepted for filing unless it contains all of the information required by subdivision (a) . . .”.)

<sup>5</sup> Note that the District informs the State Water Board that it will “not transfer water such that it would adversely impact the District’s growers.” (Attachment to Change Petition No. 1, at p.4.) There is no similar assurance with respect to fish, wildlife, habitat or other instream beneficial uses in California.

<sup>6</sup> Compliance with the Bridgeport Reservoir Operations Manual is not optional in any event. See State Water Resources Control Board’s Order WR 90-18 and California Regional Water Quality Control Board’s Clean-up and Abatement Order 6-89-154.

<sup>7</sup> Petitioners are required to request consultation with the Department of Fish and Game (now Fish and Wildlife) and the Lahontan Regional Water Quality Control Board and to provide their comments to your Board. (See 23 CCR §794(b) and (c).)

Given the significant involvement of California's natural resources in the Stored Water Program (the District specifically limited the Program to California-stored water, based in part on its own members' concerns regarding potential impacts associated with the leasing of "decree" or "direct flow" rights within Nevada) it behooves the State of California (including the Water Board, Regional Board, and California Fish and Wildlife, among others) to require adequate data from the District to support informed decision making in considering the applications. As previously stated, approving a change petition for the purpose of benefitting Walker Lake, while causing harm to California's resources within the Walker River Basin, would only undermine efforts to protect Walker Lake, making them synonymous with environmental degradation elsewhere.

Mono County supports the lease of water in the Walker River Basin for the purpose of benefitting Walker Lake, but does not support a program to do so that results in environmental or economic harm within California and Mono County.

4. The Stored Water Program is in reality a three-year pilot water leasing program established by federal law and administered by the District. To treat it as a one-year temporary change for the purpose of avoiding environmental review under the California Environmental Quality Act (CEQA) is improper piecemealing which violates the spirit and letter of CEQA.

Notwithstanding its application for a temporary change of one year or less, the District's Stored Water Program is in reality a three-year water leasing program. In 2009, Congress allocated \$66,200,000 for the Walker River Restoration Program, of which \$25,000,000 is provided to the "Walker River Irrigation District . . . to administer and manage **a 3-year water leasing demonstration program** in the Walker River Basin to increase Walker Lake inflows." (P.L. 111-85, October 28, 2009, Section 208(b)(1)(B)(i)(I), emphasis added.) The District acknowledges that its Change Petitions relate to transfers pursuant to that program.

While Water Code section 1729 exempts temporary changes of one year or less from the application of CEQA, CEQA itself requires public agencies to consider the "whole of an action" when considering a project, and forbids a public agency (including any agency carrying out or approving the project) from dividing what is in reality a larger undertaking into several smaller projects for the purpose of evading environmental review. "The requirements of CEQA 'cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.'" (*Topanga Beach Renters Assoc. v. Dept. of General Services* (1976) 58 Cal.App.3d 188, 195-96, citing *Plan for Arcadia, Inc. v. City Council of Arcadia* (1974) 42 Cal.App.3d 712, 726 and see 14 CCR § 15378.) Nor may the agency engage in piecemealing in order to avail itself of an exemption applicable to only a portion of the project.

What the Board has before it is an application for temporary change for the first year of a three-year water leasing program.<sup>8</sup> The Board should not be complicit in such piecemealing.

In conclusion, Mono County's primary comment related to the Change Petitions is to urge the State Board to be vigilant in protecting California's fragile natural resources, its recreational assets, and economic backbone by undertaking a thorough environmental review that includes analysis of actual impacts which may occur as a result of the proposed changes.

The Mono County Board of Supervisors appreciates the opportunity to review and comment on the Change Petitions. If your Board, or staff, should have any questions regarding this letter or the

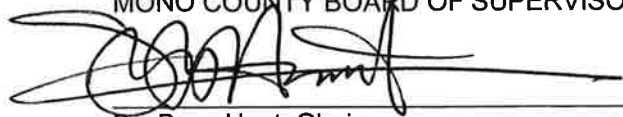
---

<sup>8</sup> It would appear to be an issue of first impression in California whether an entity, such as the District, meeting CEQA's definition of "public agency" but organized pursuant to the laws of another state is, itself, subject to CEQA when it carries out a project within the State of California. (See Cal. Pub. Res. Code § 21063 which defines public agency as "any state agency, board or commission, any county, city and county, city, regional agency, **public district**, redevelopment agency or other political subdivision" without specifying that such entities be "of the State of California.") Further, Public Resources Code § 21001.1 expresses the state's policy "that projects **to be carried out by public agencies** be subject to the same level of review and consideration under this division as that of private projects required to be approved by public agencies." (Emphases added.)



County's comments generally, please contact Assistant County Counsel Stacey Simon at [ssimon@mono.ca.gov](mailto:ssimon@mono.ca.gov) or 760-924-1704. Thank you again for your consideration of these significant issues.

Sincerely yours,  
MONO COUNTY BOARD OF SUPERVISORS



By: Byng Hunt, Chair

Encl.

Cc: Walker River Irrigation District  
c/o Darren Cordova  
MBK Engineers  
1771 Tribute Road, Suite A  
Sacramento, California 95815

Ken Spooner, Walker River Irrigation District  
P.O. Box 820  
Yerington, Nevada 89447

State Water Resources Control Board (via email):  
Felicia Marcus, Chair ([Felicia.Marcus@waterboards.ca.gov](mailto:Felicia.Marcus@waterboards.ca.gov))  
Frances Spivy-Weber, Vice Chair ([Frances.Spivy-Weber@waterboards.ca.gov](mailto:Frances.Spivy-Weber@waterboards.ca.gov))  
Thomas Howard, Executive Director ([Thomas.Howard@waterboards.ca.gov](mailto:Thomas.Howard@waterboards.ca.gov))  
Tam M. Doduc, Member ([Tam.Doduc@waterboards.ca.gov](mailto:Tam.Doduc@waterboards.ca.gov))  
Steven Moore, Member ([Steven.Moore@waterboards.ca.gov](mailto:Steven.Moore@waterboards.ca.gov))  
Dorene D'Adamo, Member ([Dorene.Dadamo@waterboards.ca.gov](mailto:Dorene.Dadamo@waterboards.ca.gov))

California State Senator Tom Berryhill  
State Capitol, Room 3076  
Sacramento, CA 95814

California Senator Ted Gaines  
State Capitol, Room 3070  
Sacramento, CA 95814

Assemblymember Frank Bigelow  
State Capitol, Suite #4116  
Sacramento, CA 94249-0005



<< [Back to Fishing](#)

## TOP FISHING SPOTS

### LODGING

Select Location:  
   
 Select Type:  
   
[Search Mono County Lodging](#)   [GO!](#)

### SPECIAL OFFERS

Select Location:  
   
 Select Type:  
   
[Search Special Offers](#)   [GO!](#)

### REQUEST A GUIDE



We have several guides to help plan your trip to Mono County and the Eastern Sierra.  
[Request Guide](#)

### INTERACTIVE MAPS

A listing of the major fishing areas from north to south in Mono County and what you can expect to catch!

**PLUS**, check out the new [Eastern Sierra Back Country Fishing Guide](#) from our friends at California Department of Fish & Game!

BODY OF WATER	LOCATION	WHAT YOU'LL CATCH
<b>Topaz Lake</b>	U.S. 395, north of Topaz/Coleville	Either a CA or NV fishing license works here. Catch rainbows and browns from Jan. 1 to Sept. 30.
<b>West Walker River</b>	U.S. 395, South of Walker / Coleville	Designated a "wild and Scenic River," the West Walker River has a reputation for its trophy-sized trout-rainbow, and brown. It's also a favorite river to kayak especially through its winding bends and rocky troughs.
<b>Little Walker River</b>		Little Walker River runs from Little Walker Campground to the opening of the West Walker River and adds a more challenging day of fishing for fly fishing anglers. Rainbows and Browns are stocked and come up stream from the larger West Walker River.
<b>Bridgeport Reservoir</b>	Hwy 182, North of Bridgeport	A thriving population of German browns, rainbows, cutthroat and Sacramento Perch.
<b>East Walker River</b>		Anglers come from all over the country each year to try their luck against the wily Browns and Rainbos at this year round fishing destination. The East Walker has special regulations, artificial flies or lures only with barbless hooks. From November 16th to the last Saturday in April the limit is zero, the rest of the year the limit is one fish over 16".
<b>Twin Lakes</b>	Hwy 420, 14 Miles outside of Bridgeport on Twin Lakes Road	A family vacation favorite with campsites, cabins and lots of fish on two lakes
<b>Virginia Lakes</b>	South of Bridgeport, west of Hwy 395 at the top of Conway Summit	Stocked weekly with rainbows, plus browns and brookies on three picture-perfect alpine lakes.
<b>Lundy Lake</b>	South of Bridgeport, west of U.S. 395 at the base of Conway Summit	Five miles from US 395 up a canyon on a paved road, you'll find a big lake and lots of rainbow, brown and brook trout.
<b>Conway Ranch</b>	Between Lee Vining and Bridgeport, 35 miles north of Mammoth Lakes at U.S. 395 & Hwy 167	The famous Alpers Trout and Lahontan cutthroat trout are raised here and several ponds and streams are open to the public for fishing. Advance reservations are required - (760) 709-6446.
<b>June Lake Loop</b>	A loop from from U.S. 395 at the town of June Lake, north toward Lee Vining	Four lakes: June, Gull, Silver, and Grant are easily reached from the June Lake Loop. The fishing's so good here, the lakes are used to test synthetic baits. Loaded with Alpers, rainbow, brown and brook trout.
	June Lake Loop	

<b>Lower Rush Creek</b>		Not for the beginning fly fisherman, it flows from Grant Lake (June Lake Loop) and has cautious, but big brown trout.
<b>Mammoth Lakes Basin</b>	Mammoth Lakes	In the town of Mammoth Lakes are several great lakes for float, boat and shore fishing. Rainbows, Browns and Brookies.
<b>Hot Creek</b>	East of Mammoth Lakes near airport	Some 5,000 to 7,000 rainbow and brown trout per mile live in this popular stream. Ideal for beginning fly fishing, though sure to please anyone.
<b>San Joaquin River</b>	High Sierra, west of Mammoth Lakes	A beautiful area in the backcountry where you can catch rainbows, browns, brooks and golden trout.
<b>Convict Lake</b>	South of Mammoth Lakes off U.S. 395	3 to 7 pounders are pretty common on this big lake. Up to 1000 lbs of trout are stocked each week.
<b>Upper Owens River</b>	East of U.S. 395 between June Lakes and Bishop	Go for big rainbows in spring and browns in fall.
<b>Lower McGee Creek</b>	Near Crowley Lake, off U.S. 395	A gentle, meandering stream near and flowing into Crowley Lake. Lots of oxbows, ideal fly fishing stream.
<b>Crowley Lake</b>	East of U.S. 395, north of Tom's Place	Home of the big rainbow which grow big off Sacramento perch fry and lots of nutrients from streams feeding the lake.
<b>Lower Owens River</b>	In neighboring Inyo County, south of Bishop	Year-round fishing on this designated Brown Trout water, best February to April.



&lt;&lt; Back to Fishing

## 2013 FISHING EVENTS

### LODGING

Select Location:

Select Type:

Search Mono County Lodging   GO!

### SPECIAL OFFERS

Select Location:

Select Type:

Search Special Offers   GO!

### REQUEST A GUIDE



We have several guides to help plan your trip to Mono County and the Eastern Sierra.

[Request Guide](#)

### INTERACTIVE MAPS

Something fishy is going on almost everywhere in the Eastern Sierra! Plan your trip to your favorite Mono County fishing spot around this year's derbies, events and festivals.

#### 2013 FISHING EVENTS

**Jan. 1 - April 14 - Topaz Lake Fishing Derby** - Topaz Lake. The fishing season at Topaz Lake (California-Nevada border) goes from Jan. 1 - Sept. 30, 2011! Topaz Lodge hosts their annual fishing derby from Jan. 1 until April 15 -- catch tagged fish for cash and prizes. No entry fee! Contact 800-962-0732 / <http://www.topazlodge.com/portfolios/2013-topaz-lodge-fishing-derby/>

**April 27 - Fishmas Day Celebration at Tom's Place** - Tom's Place. A fun-filled fishing derby with cash prizes, 50/50 raffle for cash, and lots of contest categories. Advance registration required. Contact (760) 935-4239 / [www.TomsPlaceResort.com](http://www.TomsPlaceResort.com)

**April 27 - Crowley Lake Resort "Big Fish" Contest** - Crowley Lake. No entry fee -- just bring your opening day catch to Crowley Lake Fish Camp Tackle shop for prizes and fame. Contact 760-935-4301 / <http://www.crowleylakefishcamp.com/>

**April 27 - Monster Fish Contest - June Lake Loop** - Prizes will be awarded for biggest trout caught by a local resident, biggest trout caught by a child, biggest trout caught by a woman, and the ugliest trout entered. Contact [www.junelake.com](http://www.junelake.com)

**April 27 - 28 - Mono Village Fishing Opener Derby** - Upper Twin Lakes, Bridgeport. Cash and merchandise prizes given in several categories. Registration fee required. Contact (760) 932-7071 / [www.MonoVillage.com](http://www.MonoVillage.com)

**April 27 through November 15 - Gull Lake Marina "Fish of the Month Club" Derby** - June Lake Loop. Cash prizes are awarded for the biggest catch from Gull Lake every month of fishing season! Entry fee is just \$5. Plus, rent a boat from the marina and catch a fish over 3lbs., and you get to spin the Wheel of Prizes! For information call Gull Lake Marina at (760) 648-7539 or [www.gulllakemarina.com](http://www.gulllakemarina.com)

**April 28 - June 13 - "Round-up at the Lake" Spring Fishing Derby** - Convict Lake. Cash prizes up for grabs; advance registration required. Contact (800) 992-2260 or [www.ConvictLakeResort.com](http://www.ConvictLakeResort.com)

**June 7-9 - "Hangman's Bonus Derby" Convict Lake** - Convict Lake. Cash prizes up for grabs; advance registration required. Contact (800) 992-2260 or [www.convictlakeresort.com](http://www.convictlakeresort.com)

**June 22 - Bridgeport Trout Tournament**. An open derby with several categories, funds generated from this event help provide more trout for Bridgeport Reservoir and the East Walker River. Contact (760) 932-7525 / [www.BridgeportFishEnhancement.com](http://www.BridgeportFishEnhancement.com); or Bridgeport Chamber of Commerce at (760) 932-7500 / [www.BridgeportCalifornia.com](http://www.BridgeportCalifornia.com).

**June 29 - Trout Fest**- Hot Creek Hatchery, Mammoth Lakes 10am-2 pm Bring your family to Trout Fest for free, fun filled day of fishing activities and fascinating facts about California native trout. Contact (559) 765-4824

**June 29 - July 7 - Mono Village 4th of July Fishing Derby** - Upper Twin Lakes, Bridgeport. Cash and merchandise prizes given in several categories. Registration fee required. Contact (760) 932-7071 / [www.MonoVillage.com](http://www.MonoVillage.com)

**July 1-31 - How Big is Big Fishing Derby** - West Walker River. Sponsored by the communities of Walker, Coleville and Topaz, and the Northern Mono Chamber of Commerce, the 9th Annual How Big is Big Fishing Derby runs for the entire month of July. No entry fee -- just bring your fish in to the Walker General Store, and your catch will be weighed and recorded. Lots of prizes. Contact (530) 208-6078 / [www.NorthernMonoChamber.com](http://www.NorthernMonoChamber.com)

**July 6 - Free Fishing Day**. Come and fish for FREE in Mono County! All regulations still apply and Report Cards are required -- but Fishing Licences are waived on this day (and again on September 6, 2010). For more information on Mono County fishing regulations, contact the California Department of Fish & Game at (760) 934-2664 or <http://www.dfg.ca.gov/>.

**July 27 Children's Fishing Festival- Snowcreek Resort Mammoth Lakes** - Kids under 12 can catch an Alpers trout at snowcreek ponds. Event T-shirts, prizes. Contact (760) 937-2942 or [www.kidsfishfest.com](http://www.kidsfishfest.com)

**August 3-11 - Mono Village Summer Fishing Derby** - Upper Twin Lakes, Bridgeport. Cash and merchandise prizes given in several categories. Registration fee required. Contact (760) 932-7071 /[www.MonoVillage.com](http://www.MonoVillage.com)

**August 31- September 8 - Mono Village Labor Day Fishing Derby** - Upper Twin Lakes, Bridgeport. Cash and merchandise prizes given in several categories. Registration fee required. Contact (760) 932-7071 /[www.MonoVillage.com](http://www.MonoVillage.com)

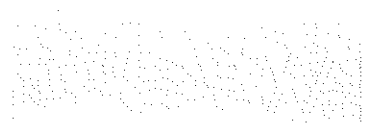
**September 1-3 Morrison's Bonus Derby Weekend** - Convict Lake. Cash prizes! contact (800) 922-2260 or [www.convictlakeresort.com](http://www.convictlakeresort.com)

**September 7 - Free Fishing Day.** Come and fish for **FREE** in Mono County! All regulations still apply and Report Cards are required -- but Fishing Licences are waived on this day. For more information on Mono County fishing regulations, contact the California Department of Fish & Game at 760-934-2664 or <http://www.dfg.ca.gov/>

**September 2-November 15 - "Ambush at the Lake" Fall Fishing Derby** - Convict Lake. Catch a tagged fish at the Convict Lake Fall Fishing Derby Series and win thousands of dollars in cash and prizes! Contact (800) 992-2260 / [www.ConvictLakeResort.com](http://www.ConvictLakeResort.com)

**September 20-22 -The Fly Fishing Faire** - Four fun filled days of fly casting, fly tying, and lessons for the family. Beginners to advance with great prizes. Contact 951-415-9920 / [www.southwestcouncilfff.org](http://www.southwestcouncilfff.org)

**For more information about these fishing events, other sports events, music festivals, and food, beer & wine celebrations, check out our full [Calendar of Events](#).**



November 22, 2013

Gordon H. DePaoli  
E-MAIL: [gdepaoli@woodburnandwedge.com](mailto:gdepaoli@woodburnandwedge.com)  
DIRECT DIAL: (775) 688-3010

*Via Electronic Mail [kgaffney@waterboards.ca.gov](mailto:kgaffney@waterboards.ca.gov)  
and Regular Mail*

California State Water Resources Control Board  
Division of Water Rights  
Attn: Kate Gaffney  
P.O. Box 2000  
Sacramento, California 95812-2000

**Re: Petitions for Temporary Change Involving Water Transfer, Walker River  
Irrigation District Licenses 6000 and 9407 (Applications 2221 and 1389,  
respectively)**

Dear Ms. Gaffney:

This letter is the Walker River Irrigation District's ("District") response to comments received by the Division of Water Rights ("Division") regarding the Petitions for Temporary Change Involving Water Transfers and Instream Flow Dedication to Walker River Irrigation District Licenses 6000 and 9407 (the "Petitions"). The Division has received the following comment letters with respect to the Petitions: (1) Antelope Valley Mutual Water Company, April 11, 2013; (2) Peter Fenili, April 16, 2013; (3) Mono County Board of Supervisors, April 16, 2013; (4) Six N Ranch, Inc., April 18, 2013; (5) National Fish and Wildlife Foundation (Don Springmeyer, Wolf, Rifkin, Shaprio, Schulman & Rabkin, LLP), April 19, 2013; (6) California Department of Fish and Wildlife, April 22, 2013; (7) Gary Garms, April 22, 2013; (8) Walker River Paiute Tribe (Dwight Smith), April 22, 2013; and (9) United States Board of Water Commissioners (Karen Peterson, Allison-MacKenzie), May 9, 2013 (collectively, the "Comment Letters").

Because many of the Comment Letters raise similar issues, we have categorized and responded to similar issues by subject matter. However, we have identified each of the parties who raised each common issue. To the extent that a party has made a comment which is unique to that party, we have addressed it separately.

**I. BACKGROUND.**

**A. The Walker River Decree**

The Walker River Basin is essentially a closed basin in Eastern California and Western Nevada. Beginning in the Sierra Nevadas in California, the East and West Walker

Kate Gaffney  
November 22, 2013  
Page 2 of 17

Rivers converge approximately 7 miles north of the town of Yerington, Nevada. Walker Lake is the terminus of the Walker River and the lowest point in the basin. The majority of streamflow is from snowmelt, with peak flow being in late May to early June. The Walker River is the main source of inflow for Walker Lake, but there is also a small amount of inflow from nearby small streams and sub-surface inflow of groundwater.

The District was formed in 1919 for the purpose of constructing Bridgeport and Topaz Reservoirs. The District constructed those reservoirs to extend the growing season and supplement the available natural flow during the irrigation/growing season.

As a result of litigation initiated in 1902, Decree 731 was issued in 1919, by the United States District Court for the District of Nevada, as the first regulatory control on the system as a whole. However, Decree 731 did not include rights for the Walker River Indian Reservation and other irrigators in the Basin. Decree C-125 (hereinafter referred to as the Walker River Decree) was issued by the United States District Court for the District of Nevada (Walker River Court) on April 14, 1936 (amended April 24, 1940) as the culmination of the suit *United States of America v. Walker River Irrigation District, et al.* For each water right owner, the Walker River Decree sets forth the source, priority date, the diversion rate at the point of diversion, the number of acres irrigated, and a general description of the place of use of the appropriation.

Under the Walker River Decree, the Walker River Court retains jurisdiction for regulatory purposes and for the purpose of appointing a Watermaster to apportion and distribute “the waters of the Walker River, its forks and tributaries in the State of Nevada and in the State of California, including water for storage and stored water, in accordance with the provisions of [the] decree.” On May 12, 1937, an order was entered appointing five persons to perform that function. An order adding a sixth member was entered in 1940. The orders establishing the “Board of Water Commissioners” gave that Board the authority to appoint an assistant, Chief Deputy Water Commissioner, who has the day-to-day responsibility of apportioning and distributing the waters of the Walker River, its forks and tributaries in the State of Nevada and in the State of California, including water for storage and stored water, in accordance with the provisions of the Walker River Decree. The Board of Water Commissioners, with approval of the Walker River Court, may make such rules as may be necessary and proper for the enforcement of the Walker River Decree and for carrying out its purposes. The Walker River Court approved such rules on September 3, 1953 (The 1953 Rules and Regulations). The 1953 Rules and Regulations state that these duties are to be assigned to the Chief Deputy Water Commissioner. For the purposes of this letter, the term “Watermaster” is used in most cases to refer to the Chief Deputy Water Commissioner.

**B. Water Rights**



Kate Gaffney  
November 22, 2013  
Page 3 of 17

## **1. Decreed Natural Flow Rights**

The Walker River Decree adjudicates the diversion of the Walker River and its tributaries for direct land application and diversion to storage facilities for subsequent use. The decreed rights were appropriated based upon and are entitled to the stream flow as it was when the appropriations were made. For the purpose of this letter, we have referred to decreed natural flow rights in order to distinguish between other water rights such as storage, and state certificated surface water rights. Below are highlights of the Walker River Decree relative to the natural flow for direct land application:

- The United States, for the benefit of the Walker River Indian Reservation, has the earliest priority (most senior) right of 1859 for 26.25 cfs for use on 2,100 acres. The irrigation season for this water right is 180 days within the period March 1 to October 31. The decreed diversion rate is 1.25 cfs per 100 acres. Pursuant to the 1953 Rules and Regulations the flow available for this right is currently measured and monitored at the United States Geological Survey (USGS) Walker River gage near Wabuska (No. 10301500).

- The Walker River Decree defines the source of water, the priority date, the rate of diversion, the acreage, and a general description of the lands to which water is to be applied. The majority of decreed diversion rates from the river are either 1.6 cfs, or 1.2 cfs for each 100 acres of irrigated land. The Walker River Decree does not set an acre-foot per irrigated acre water duty.

- The irrigation season for areas above Bridgeport Reservoir on the East Walker River and the Coleville gaging station on the West Walker River is from March 1 to September 15. The irrigation season for the remaining irrigated areas is March 1 to October 31.

## **2. Storage Water Rights - General**

Water rights for the storage of water in numerous reservoirs are also set forth in the Walker River Decree. There are several small reservoirs on the tributaries upstream from Bridgeport and Topaz Reservoirs, used to serve Bridgeport and Antelope Valleys, which are identified in the Walker River Decree. The Walker River Decree does not recognize any right to store water in Weber Reservoir for the Walker River Tribe.

The two major storage facilities and rights documented in the Walker River Decree are for Bridgeport and Topaz Reservoirs which are owned and operated by the District. These reservoirs are licensed by California License 9407, for Bridgeport Reservoir, and California



Kate Gaffney  
November 22, 2013  
Page 4 of 17

License 6000, for Topaz Reservoir. The District uses the available stored water to supplement decreed natural flow rights, and as a primary source of supply for “new lands” (lands with no other surface water right). The Walker River Decree defines storage quantities and priorities, but the allocation of the available stored water from Bridgeport and Topaz Reservoirs is determined by the District.

### **3. Bridgeport and Topaz Reservoirs**

The Walker River Decree states that the District is “the owner of the flow and use of the flood water of East Walker River...for storage in Bridgeport Reservoir” and “the owner of the flow and use of the flood water of West Walker River...for storage in Topaz Lake Reservoir.” For Bridgeport Reservoir, the Walker River Decree sets a maximum diversion to storage of 42,000 acre-feet from November 1 to March 1, without regard to priority. It also states that when there is “water in excess of the total amount adjudicated,” the District may store an additional 15,000 acre-feet at any time, providing there is no injury to other users. Similarly for Topaz Reservoir, the Walker River Decree sets a maximum diversion to storage of water from West Walker River of 50,000 acre-feet from November 1 to March 1, without regard to priority. It also states that when there is “water in excess of the total amount adjudicated,” the District may store an additional 35,000 acre-feet at any time, providing there is no injury to other users. The Walker River Decree includes no limit on the amount of water which can be withdrawn from storage in any one year.

Bridgeport and Topaz Reservoirs are also licensed by the State of California. The District holds License 9407 (Application 1389) for storage in Bridgeport Reservoir, having a priority date of August 8, 1919. The licensed season for collection to storage is about September 1 to about July 20 for up to 39,700 acre-feet annually, with maximum storage of 42,500 acre-feet. License 9407 for Bridgeport Reservoir notes that storage, in combination with the Licensee’s water rights confirmed by the Walker River Decree, is not to exceed 57,000 acre-feet annually. The District holds Licenses 6000 and 3987 (Applications 2221 and 2615, respectively) for storage in Topaz Reservoir, having priority dates of February 21, 1921 and October 28, 1921, respectively. The season for collection to storage under License 6000 is about October 1 to about July 15 for up to 57,580 acre-feet annually. License 3987 is for collection to storage of up to 200 acre-feet (year round) from an unnamed steam tributary to Topaz Reservoir. The District also holds Certificate 4972 for storage in Topaz Reservoir, issued by the Nevada State Engineer. The place of use under the water rights for Bridgeport and Topaz Reservoirs is lands within the District boundaries.

### **4. Allocation of Benefits From Stored Water**

Kate Gaffney  
November 22, 2013  
Page 5 of 17

As noted, the District holds the water rights to the stored water in Bridgeport and Topaz Reservoirs. A historical methodology using an average number of days that natural flow rights were not available to a given priority was used to establish a maximum quantity of stored water allocated to land by priority date of its appurtenant decreed natural flow right. Lands within the District with appurtenant junior decreed natural flow rights have been allocated more stored water than lands with appurtenant senior decreed natural flow rights. Stored water is also allocated to “new lands” which are irrigated areas with no natural flow rights; these new lands have allocated the most stored water on a per acre basis, up to approximately 2.0 acre-feet/acre. By April 1 of each year, the amount of stored water available to lands in the District is determined. The landowner can then call for this stored water for irrigation at any time during the period April 1 and October 31.

#### **5. Summary**

The water which is the subject of the Petitions is previously stored water. It is water which is stored either during the non-irrigation season, or during the irrigation season when all other decreed natural flow rights being exercised are fully satisfied. It is water which was not available when the senior decreed natural flow irrigation rights were established by diversion to beneficial use under Nevada and California law.

## **II. PURPOSE OF PETITIONS.**

The Petitions seek: (1) to temporarily add to the existing place of use covered under the Licenses, in the case of Bridgeport Reservoir to include the East Walker River from Bridgeport Reservoir to the confluence of the Walker River, thence the Walker River to and encompassing Walker Lake, and in the case of Topaz Reservoir, to include the West Walker River from the outlet of Topaz Reservoir to the confluence of the Walker River, thence to and encompassing Walker Lake; and (2) to temporarily add Fish and Wildlife Preservation and Enhancement as an additional purpose or use for the release of up to 25,000 AF for instream dedication to Walker Lake.

The District has a Grant Agreement with the National Fish and Wildlife Foundation (“NFWF”) to administer and manage a “Stored Water Program” in the Walker River Basin. The purpose of the Stored Water Program is to release surface water from the Reservoirs for instream dedication to and including Walker Lake. Surface water will be made available for the proposed temporary transfer by releases from Bridgeport Reservoir and Topaz Reservoir of water that was previously stored or would have otherwise been held in storage absent the proposed transfer, some or all of which would otherwise have been released for irrigation purposes within the District, as described further in the Petitions. The District will seek additional approvals, and

Kate Gaffney  
 November 22, 2013  
 Page 6 of 17

coordinate as necessary with the Nevada State Engineer and other entities in order to obtain the authorizations for the proposed water transfer and instream flow dedication.

**III. RESPONSE TO COMMENTS.**

**A. Introduction**

The table below sets forth the general subject matter of comments which are common to two or more of the Comment Letters, and identifies the parties making the comment. Those comments are addressed initially. The subject matter of comments which are not common to more than one party are addressed separately by party.

**Table 1 - Common Comments by Subject Matter and Party**

<u>General Subject of Comment</u>	<u>Party(ies) Commenting</u>
1. Loss of Return Flows; Adverse to Delivery Efficiencies	Antelope Valley Mutual Water Company; Peter Fenili; Gary Garms; Board of Water Commissioners; Walker River Paiute Tribe ("Tribe")
2. Loss of Carry Over Storage	Peter Fenili; Gary Garms; Board of Water Commissioners; Six N Ranch, Inc.
3. Releases from Storage Should Be Limited to the Irrigation Season Set Forth in the Walker River Decree	Peter Fenili; Gary Garms; Board of Water Commissioners; Six N Ranch, Inc.; Tribe
4. Clarify the Quantity Being Changed	Department of Fish and Wildlife; National Fish and Wildlife Foundation ("NFWF")
5. Protection of California Resources	Department of Fish and Wildlife; Mono County
6. Compliance With CEQA Is Required Because the Lease Demonstration Program Is Authorized for 3 Years	Department of Fish and Wildlife; Mono County

Kate Gaffney  
November 22, 2013  
Page 7 of 17

**B. Relevant Requirements**

For the most part, the Comment Letters do not address the standards which the California State Water Resources Control Board (the “State Board”) must consider in deciding whether to approve the Petitions. The Petitions are filed pursuant to California Water Code § 1725 to temporarily change the place and purpose of use to instream flow dedication under Water Code § 1707. California Water Code § 1725 provides:

A permittee or licensee may temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of the water, and would not unreasonably affect fish, wildlife, or other instream beneficial uses. For purposes of this article, “consumptively used” means the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.

Water Code § 1727(b) sets forth the standards by which the State Board is to judge the Petitions. It provides:

(b) The board shall approve a temporary change if it determines that a preponderance of the evidence shows both of the following:

(1) The proposed temporary change would not injure any legal user of the water, during any potential hydrologic condition that the board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows.

(2) The proposed temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses.

Water Code § 1727(e), dictates how the State Board is to apply the foregoing standards. It provides:

(e) In applying the standards set forth in paragraphs (1) and (2) of subdivision (b), the board shall not deny, or place conditions on a temporary change to avoid or mitigate impacts that are not caused by the temporary change.

Kate Gaffney  
November 22, 2013  
Page 8 of 17

Finally, under Water Code § 1729, proposed temporary changes under Water Code §§ 1725-1732 are exempt from the requirements of the California Environmental Quality Act (CEQA), Public Resources Code § 21000, *et seq.*

Thus, the only real issues are whether the Petitions will injure any legal user of water, or will unreasonably affect fish, wildlife, or other instream beneficial uses.

**C. Response to Comments**

**1. Comment - The Change From Irrigation to Instream Use Will Result in a Loss of Return Flows and Will Be Adverse to Delivery Efficiencies**

As set forth above, the water involved here is water previously stored in priority. By its storage, it is “consumptively used” as defined in Water Code § 1725 because, when stored, it is removed from use in the downstream water supply. It only reaches the downstream water supply when its owner calls for it. Historically, the District has encouraged owners of stored water to establish farm reuse systems on their farms for the reuse of stored water.

This issue was raised by the Antelope Valley Mutual Water Company, Peter Fenili, Gary Garms, the United States Board of Water Commissioners, and the Walker River Paiute Tribe (“Tribe”). The Tribe uses this argument in several different ways. Importantly, the storage rights involved here did not exist when the natural flow rights in the Walker River Decree were established either under state or federal law. Therefore, a change to these stored rights cannot adversely impact such prior rights. There was no return flow from these stored rights on which the prior natural flow rights in the Walker River Decree could have relied.

Moreover, beneficial owners of stored water rights are allowed to call for their stored water when they have determined they need it, subject, of course, to beneficial use and any applicable period of use limitations. As a result, there is no assured pattern of use on which others have arguably relied for purposes of return flow or for delivery efficiencies in the River or in ditches. The requested changes will not injure other legal users of water because the water being changed is not water on which they have a right to rely.

A downstream water right is not entitled to benefit from water previously lawfully stored under another’s water right. The only rights that such a downstream appropriator has are those which he would have had under the natural conditions existing before the dam was erected. (*See, State Water Resources Control Board Cases* (2006) 146 Cal.App.4th 674, 738; *Stevens v.*

Kate Gaffney  
November 22, 2013  
Page 9 of 17

*Oakdale Irrigation District* (1939) 13 Cal.2d 343, 350 [downstream appropriator has no right to continuation of existing pattern of releases from upstream reservoir]; *In the Matter of Applications 31487 and 31488 and Change Petitions 3723, 4196, 11605 and 10180* (October 16, 2012) Cal. St. Wat. Res. Bd. Dec. No. 1651, 23-24.)

**2. Comment - There Will Be a Loss of Carryover Storage**

Concerns over the loss of carryover storage have been expressed by Peter Fenili, Gary Garms, the United States Board of Water Commissioners, and Six N Ranch, Inc. Beneficial owners of stored water have an absolute right to call on their stored water for beneficial use during an irrigation season. None are required to leave any water in storage at the end of an irrigation season to benefit the common pool for the subsequent year. For the same reasons that a downstream appropriator has no right to a continuation of the existing pattern of releases from upstream storage, a change in use which results in a greater opportunity to beneficially use all of an owner's stored water is not an injury to legal users of water. An appropriator is not required to refrain from using stored water in order to make more water available to others. (*Stevens v. Oakdale Irrigation District*, *supra*. 13 Cal.2d 343; Decision No. 1651, *supra* 31.)

**3. Comment - Withdrawals Should Be Limited to the Irrigation Season Set Forth in the Walker River Decree**

This comment was made by Peter Fenili, Gary Garms, the United States Board of Water Commissioners, Six N. Ranch, Inc., and may also be reflected in the concerns of the Tribe. Nevada law grants an irrigation district the authority to adopt regulations for the use of water within the district. The District has exercised that authority, and has adopted a regulation which limits the use of stored water for irrigation purposes to the period April 1 to October 31. That period does not completely coincide with the irrigation season under the Walker River Decree.

Both the Walker River Decree provisions and the existing District regulation establish a season for "irrigation use." The Walker River Decree and California law allow for changes in use. The use here will not be an irrigation use, and therefore the period of use for irrigation simply does not apply. However, it is likely that releases will take place during the period April 1 to October 31, or immediately after October 31.

**4. Comment - Clarify Whether the Changes Involve 50,000 Acre-Feet**

This is a comment which is common to the California Department of Fish and Wildlife and the National Fish and Wildlife Foundation. The National Fish and Wildlife Foundation

Kate Gaffney  
November 22, 2013  
Page 10 of 17

actually requests that the Petitions be interpreted to, in fact, involve 50,000 acre-feet rather than 25,000 acre-feet.

The Petitions are limited to a combined total of 25,000 acre-feet. The combined 25,000 acre-feet total is clearly enough to meet the District's participation goal of 25% of the total stored water allocated.

**5. Comment - Safeguards Should Be Included to Protect Resources in California**

This issue was raised by the California Department of Fish and Wildlife ("Department") and Mono County. It appears to encompass concerns related to recreational levels in Bridgeport and Topaz Reservoirs, as well as whether sufficient information is available to assess whether the proposed temporary changes would not unreasonably affect fish, wildlife, or other instream beneficial uses. Both the Department and Mono County are concerned with reservoir levels and stream flow changes.

Initially, it is important to understand what is presently allowed under these rights in the absence of the proposed changes. In order to determine whether the proposed changes will unreasonably affect fish, wildlife, or other instream beneficial uses, what is presently allowed must then be compared to what will be allowed if the proposed changes are approved.

First, the Petitions do not request any changes to diversion to storage. They request changes in the place and purpose of use upon release from storage. Because of that fact, there can be no impact to the West Walker River bypass flow which relates to when the water is diverted to storage in Topaz Reservoir. Moreover, releases from Topaz Reservoir storage will not impact any part of the West Walker River in California because the Topaz outlet is in Nevada.

Second, Bridgeport Reservoir will continue to be operated in accordance with the Bridgeport Reservoir Operations Manual. Minimum pool and ramping requirements will be satisfied. Minimum release requirements will be followed. Topaz Reservoir, which is located partly in California and partly in Nevada, has a dead pool of approximately 65,000 acre-feet. The Petitions will not affect the size of that dead pool at all.

Importantly, at present, farmers are allowed to call for stored water at any time for irrigation purposes during the period April 1 to October 31. There is no required pattern which limits how that water may be called for. The call is at the discretion of the owner. Today,

Kate Gaffney  
November 22, 2013  
Page 11 of 17

nothing prevents early drawdown of reservoirs or fluctuating releases during the irrigation season. The Petitions will not alter those facts.

To the extent that those facts are problematic, they do not exist because of, and are not created by, the Petitions. Under Water Code § 1727(e), the State Board cannot deny, or even place conditions on, a temporary change “to avoid or mitigate impacts that are not caused by the temporary change.” Moreover, it is possible, if not probable here, that water will be released from storage near the end of or immediately after the irrigation season. This likely will improve, and certainly will not harm, summer recreation on Bridgeport and Topaz Reservoirs. To the extent that releases occur after October 31 of a year, the District will work with the Department to avoid unseasonal additions, abnormal quantities, or rapid fluctuations in the streams.

When all of the foregoing is considered, it is clear that there is adequate information for the State Board to find that the Petitions will not affect fish, wildlife, or other instream beneficial uses. There will be no such unreasonable effects resulting from the Petitions because they do nothing more than allow the same water which, without the changes, would flow out of California for diversion to irrigation in Nevada, to flow out of California, and into Nevada for non-diversion and on to Walker Lake.

**6. Comment - The Lease Demonstration Program is a Three Year Program, Therefore the Filing Should Require Compliance With CEQA**

This is an issue raised by the Department and Mono County. Although the lease demonstration program is authorized for three years, there is nothing which requires it be for three years or that the years be consecutive years. Moreover, there is no certainty that there will be a one year program, much less a three year program. Much will depend upon the price being offered for participation and, in addition, on the availability of water.

The California legislature in Water Code § 1729 has expressly provided that changes made under Water Code § 1725 are exempt from CEQA. The legislature has the absolute right to grant that exemption. (*Sagaser v. McCarthy* (1986) 176 Cal.App.3d 288,299.) The State Board cannot disregard that exemption simply because another similar or perhaps longer change might be sought in the future. Moreover, the temporary changes will not authorize a change for longer than one year. Anything after that will require additional filings.

The District’s filing of the Petitions for a temporary one year change is not an attempt to evade CEQA requirements or to “chop a larger project into bite size pieces.” It is a practical approach to determine if a lease program is viable and can be implemented, even for one year.



Kate Gaffney  
November 22, 2013  
Page 12 of 17

The authorities relied upon by Mono County have no application here. They involve situations where the environmental analysis did not take into account future expansion or future actions related to a project. The California Supreme Court's decision in *Laurel Heights Improvement Association of San Francisco v. Regents of University of California* (1988) 47 Cal.3d 376, 396, is controlling here. There, the Court held that the environmental analysis "must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."

Here, neither of those two circumstances exist. First, an additional two years of changes is not a reasonably foreseeable consequence of these changes. As noted above, at this point, there is no certainty that a lease program will be viable even for one year. Much will depend on water availability and lease price. It is entirely speculative to suggest that subsequent changes are a foreseeable consequence of the Petitions. A just as foreseeable consequence is that there will not be subsequent changes. Second, even if in the future there are two more years of changes, those changes will not alter the scope or nature of these changes, and will not alter the environmental effects of these changes.

**7. Comment - The Walker River Irrigation District is a Public Agency Under California Law, and Must Itself Comply With CEQA**

Mono County suggest that the District is a public agency under CEQA. The District is an irrigation district organized in 1919 under the laws of Nevada. Although there seems to be no case which holds that a governmental entity of another state is not a "public agency" within the meaning of Public Resources Code § 21063, it has been determined that federal agencies, like the United States Fish and Wildlife Service, are not "public agencies" within the meaning of CEQA or its Guidelines. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1389.) There is no basis for concluding that the District is a "public agency" under CEQA.

**8. Comment - Protection of Delivery Efficiency in Irrigation Canals**

This issue was raised by Gary Garms. As noted above, owners have discretion as to when they call on stored water. Other farmers cannot control the exercise of that discretion for purposes of canal delivery efficiencies. In addition, as noted above, persons with decreed natural flow rights may not claim any reliance on stored water for purposes of canal delivery efficiencies because when their ditches were established, these stored water rights did not exist. In addition, they cannot claim injury as a result of a change in those stored rights. *See*, pgs. 8-9, *supra*.

Kate Gaffney  
November 22, 2013  
Page 13 of 17

**9. Comment - The Approval Should Be Valid for a One Year Period After the Last of the Required Approvals Are Obtained**

This comment was submitted by NFWF. The District agrees with this comment. Section 7.5 of the Administrative Rules and Regulations Regarding Change of Point of Diversion, Manner of Use or Place of Use of Water of the Walker River and Its Tributaries (the "Administrative Rules") adopted by the Walker River Court provides that any approval given by the State Board or Nevada State Engineer cannot take effect unless and until the Walker River Court enters an order modifying the Walker River Decree accordingly.

Here, the District's Regulation No. 14 concerning Temporary Changes to Stored Water Rights for Beneficial Use at Walker Lake requires State Board approval of the Petitions, and Nevada State Engineer approval of a Temporary Change Application for individual participants in the Stored Water Program. As a result, the Stored Water Program cannot take effect until the Walker River Court has approved any State Board order and any related Nevada State Engineer approvals of Temporary Change Applications. The one year period on any State Board order here should not begin to run until the Walker River Court has approved that order, and has approved at least one of the required Nevada State Engineer Temporary Change Applications.

**10. Comment - Management of Releases of This Water Past the Wabuska Gage Cannot Be Assured or, Alternatively, Requires Approval From the Bureau of Indian Affairs and the Walker River Paiute Tribe**

This is a comment from both the Tribe and the United States Board of Water Commissioners. This is an issue for the Walker River Court, and need not be addressed by the State Board. Moreover, in connection with Application 80700 before the Nevada State Engineer, NFWF and the Tribe have reached an agreement related to administration of changed water from the Wabuska Gage and through the Reservation. A copy of that agreement and the related Lower Walker River Conveyance Protocols is attached hereto as Exhibit A.

**11. Comment - The Changes Cannot Impact Delivery of Stockwater**

This is a comment from the United States Board of Water Commissioners. The Petitions will not impact, and have absolutely no relationship to, the delivery of stockwater. Stockwater is delivered during non-irrigation season. This stored water would either have been used during the irrigation season, or would be held in storage after the irrigation season. In either case, it would not and never has contributed to the delivery of stockwater.

Kate Gaffney  
November 22, 2013  
Page 14 of 17

**12. Comment - The Changes Propose a Use Outside of the Walker River Basin**

This is a comment from the United States Board of Water Commissioners. This is an issue for the Walker River Court. In connection with NFWF Application No. 80700 filed with the Nevada State Engineer, the Nevada State Engineer in Interim Ruling No. 1 has concluded that Walker Lake is within the Walker River Basin.

**13. Comment - Pending Litigation**

This is a comment from the United States Board of Water Commissioners, and is a suggestion that the State Board should withhold action on the Petitions pending the outcome of litigation which has been ongoing for nearly two decades. This is a one year temporary change, which cannot in any way impact whatever may be the outcome of the pending litigation, which outcome is years, if not decades, away.

**14. Comment - Water Should Not Be Used Outside the Irrigation District Boundaries**

This is a comment from the Six N Ranch, Inc. These are temporary changes proposed and authorized under District Regulation No. 14 which will expire in 2017. There has been no decision to allow permanent use of District stored water outside the boundaries of the District, and these temporary changes will not permit such permanent use. This is not a State Board issue. It is an internal District issue.

**15. Comment - There Is a Potential Loss of Groundwater Recharge**

This is a comment of Six N Ranch, Inc. and the Tribe. Similar to other responses, there is nothing which requires a farmer to call for this water, and neither the State Board nor the District can require a farmer to irrigate for purposes of groundwater recharge. The Nevada State Engineer has recognized this fact in a number of rulings, and has essentially determined that impacts to groundwater recharge are not a valid basis for denying a change to a surface water right. (*See, In the Matter of Change Application No. 70934 (August 21, 2007) Nev. State Engineer Ruling No. 5760, 13-15.*)

**16. Comment - The State Board Must Protect the Tribe's 1859 Right**

Kate Gaffney  
November 22, 2013  
Page 15 of 17

This is a comment from the Tribe. The Petitions involve previously stored water which has been stored in priority, after the Tribe's right is satisfied under the Watermaster's oversight. The Petitions cannot impact the Tribe's 1859 right.

**17. Comment - The State Board Must Protect the Tribe's "Right" to Store Water in Weber Reservoir.**

This is a comment from the Tribe. The Petitions involve release of previously stored water to which the Tribe has no right. At present, there is no recognized right to store water in Weber Reservoir beyond the Tribe's 1859 right recognized in the Walker River Decree. The Petitions do not include any change in the diversion to storage, and diversions to storage will take place in priority as they do today.

**18. Comment - Ensure That Lands Participating in This Stored Water Program Are Not Irrigated.**

This is a comment from the Tribe. The Grant Agreement with NFWF requires the District to ensure that lands participating in the Program do not receive water from other sources to replace this transferred water.

**19. Comment - Do Not Allow Use of Water From Dormant Lands in Dry Years.**

This is a comment of the Tribe. This comment assumes, without any support, that stored water which may be appurtenant to lands which, for some reason, are no longer irrigated is not used in dry years. District farmers with such lands can and do temporarily move stored water appurtenant to those lands to other lands during dry periods. The justification for this proposed limiting condition seems to be that in dry years, delivering stored water to Walker Lake from lands which have not been irrigated will create a new burden on the system. Given that this is previously stored water, that will not be the case. Moreover, Water Code § 1727(e) prohibits this proposed condition because it is intended to mitigate an issue not caused by the temporary changes identified in the Petitions.

**20. Comment - Decree Holder Must Own the Place of Use to Exercise a Water Right.**

This is a comment by the United States Board of Water Commissioners. If this is an issue, it is a Court issue. There is no such requirement under Nevada or California law.



Kate Gaffney  
November 22, 2013  
Page 16 of 17

**III. CONCLUSION.**

The Petitions should be granted. The proposed temporary changes will not injure any legal user of water. They will not unreasonably affect fish, wildlife, or other instream beneficial uses. None of the Comment Letters establish otherwise. If you have questions concerning this response to comments, or require additional information, please contact me or Darren Cordova of MBK Engineers.

Sincerely,

Gordon H. DePaoli

GHD:hd  
Enclosure  
cc: Attached Mailing List

Kate Gaffney  
November 22, 2013  
Page 17 of 17

MAILING LIST

Karen Peterson  
Allison MacKenzie Law Firm  
402 N. Division St.  
Carson City, NV 89702

Erin K.L. Mahaney  
Office of Chief Counsel  
State Water Resources Control Board  
1001 I St., 22nd Floor  
Sacramento, CA 95814

Richard B. Nuti, Pres.  
Six-N-Ranch, Inc.  
P.O. Box 49  
Smith, NV 89430

David Yargas, Director  
Walker Basin Restoration Program  
1133 15th St. N.W., Ste. 1100  
Washington, D.C. 20005

Dwight L. Smith  
InterFlow Hydrology, Inc.  
P.O. Box 1482  
Truckee CA 96161

Darren Cordova  
MBK Engineers  
1771 Tribute Rd., Suite A  
Sacramento, CA 95815

Jason King, State Engineer  
Division of Water Resources  
State of Nevada  
901 S. Stewart St., Ste. 2002  
Carson City, NV 89701

Walker River Irrigation District  
Kenneth Spooner, Manager  
P.O. Box 820  
Yerington, NV 89447

Dwain Chichester  
Antelope Valley Mutual Water Co.  
P.O. Box 43  
Topaz, CA 96133

Don Springmeyer, Christopher Mixson  
Wolf Rifkin Shapiro Schulman Rabkin  
3556 E. Russell Rd., 2nd Floor  
Las Vegas, NV 89210-2234

Gary Garms  
P.O. Box 170  
Smith, NV 89430

Kimberly Nicol  
Regional Manager, Dept. of Fish & Wildlife  
Inland Deserts Region  
3602 Inland Empire Blvd., C-220  
Ontario, CA 91764

Stacey Simon  
Assistant County Counsel  
Mono County Board of Supervisors  
P.O. Box 715  
Bridgeport, CA 93517

Peter A. Fenili  
Fenili Family Trust  
P.O. Box 3  
Smith, NV 89430

IN THE OFFICE OF THE STATE ENGINEER  
OF THE STATE OF NEVADA

IN THE MATTER OF CHANGE )  
APPLICATION NO. 80700 FILED BY )  
THE NATIONAL FISH AND WILDLIFE )  
FOUNDATION )  
\_\_\_\_\_ )

STIPULATION TO RESOLVE  
CERTAIN PROTESTS REGARDING  
APPLICATION NO. 80700

RECITALS

1. The National Fish and Wildlife Foundation (“NFWF”) has pending before the Nevada State Engineer (the “State Engineer”) Amended Application No. 80700 (App. 80700) requesting to change the manner of use and place of use of portions of certain water rights adjudicated by that certain Decree (the Walker River Decree) entered April 14, 1936, and amended April 24, 1940, by the District Court (the Walker Decree Court) of the United States in and for the District of Nevada in that certain action (the Walker Decree Action) entitled *The United States of America, Plaintiff, vs. Walker River Irrigation District, et al., Defendants*, In Equity Docket No. C-125.

2. Application No. 80700 was protested by the United States Bureau of Indian Affairs (BIA) and the Walker River Paiute Tribe (WRPT), among others.

4. Pursuant to portions of several acts of Congress, which are generally referred to as the Desert Terminal Lakes legislation, NFWF is charged with, among other things, the acquisition, from willing sellers, of land, water appurtenant to land and related interests in the Walker River Basin for, among other things, environmental restoration in the Walker River Basin.

5. The undersigned parties (“Parties”) hereto desire that the protests of Application No. 80700 by BIA and WRPT be resolved by these Parties in advance of the

scheduled administrative hearing on App. 80700, and that App. 80700 be approved and granted pursuant to the terms and conditions of this Stipulation.

STIPULATION

NOW, THEREFORE, the Parties hereto, acting either individually or by and through their respective counsel, stipulate and agree as follows:

1. In the event the State Engineer grants App. 80700 in whole or in part, the Parties request that the State Engineer include this Stipulation and Exhibit 1 as part of the terms and conditions, including the following:

- A. The LOWER WALKER RIVER CONVEYANCE PROTOCOLS, attached as Exhibit 1 ("Protocols"), are adopted for use in accounting for the conveyance of water approved to be changed and administered in priority under App. 80700 ("Changed Water") at the USGS Wabuska Gage, and from there on downstream to the USGS Little Dam Gage as set forth in the Protocols.
- B. The undersigned parties shall consult with the Chief Deputy Water Commissioner regarding the development, provision, and maintenance of a software tool, as may be updated and improved from time to time, to monitor and account for the conveyance of Changed Water as described in A., above. The Parties contemplate that the Protocols shall be operationally carried out by the Parties in cooperation among themselves and the Chief Deputy Water Commissioner, and under the jurisdiction of the Walker River Decree. The Chief Deputy Water Commissioner will be able to monitor the operations called for herein and shall have enforcement authority regarding those operations, if called upon by any of the Parties and otherwise at his/her discretion.



2. The parties stipulate that a permit subject to the terms and conditions set forth in paragraph 1 above will not injure or conflict with existing water rights in violation of the Walker River Decree and NRS 533.370(2), or threaten to prove detrimental to the public interest.

3. By entering into this Stipulation, no party waives any rights with respect to the content of any future change application, or with respect to any protest thereto, which any of them may file.

4. The provisions of this Stipulation are not severable, and in the event that this Stipulation is not approved by the State Engineer and the Walker Decree Court, without changes agreeable to the Parties, it shall be deemed withdrawn without prejudice to any claims or contentions which may have been made or may be made in this proceeding by any Party, and it shall not be admissible as evidence or in any way described or discussed in any proceeding subsequent to any non-approval as described in this paragraph.

5. WRPT and BIA hereby withdraw their protests of App. 80700. The Parties shall support approval by State Engineer and the Walker Decree Court of App. 80700 as provided in this Stipulation.

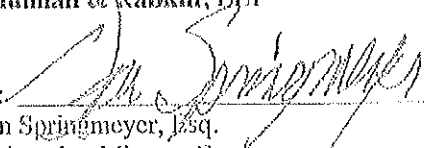
6. If the State Engineer, or the Walker Decree Court, does not approve this Stipulation as provided in Paragraph 1 above, no Party to this Stipulation shall be determined to be bound by any provisions or agreements reached and described herein.

7. This Stipulation represents a compromise of the Parties. Except as expressly set forth herein, the provisions of this Stipulation shall not be construed as or deemed to be precedent by any Party, the State Engineer or the Walker Decree Court with respect to any issue, principle, or interpretation, or application of law and regulations for

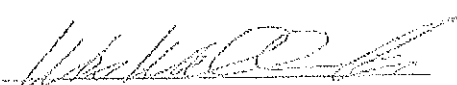
any purpose, or in connection with any proceeding before a court of law, or any state or federal government regulatory body.

8. This Stipulation may be executed in counterparts or via facsimile or electronic scanning.

**Wolf, Rifkin, Shapiro,  
Schubman & Rabkin, L.L.P.**

By:   
Don Springmeyer, Esq.  
Christopher Mixson, Esq.  
3556 E. Russell Road, 2nd Floor  
Las Vegas, Nevada 89120  
Dated: 10/20/13  
*Attorneys for Applicant National  
Fish & Wildlife Foundation*

**Law Offices of Wes Williams, Jr.**

By:   
Wes Williams, Jr., Esq.  
P.O. Box 100  
Schurz, Nevada 89427  
Dated: 9/20/13  
*Attorneys for Protestants Walker  
River Paiute Tribe*

**U.S. Dept. Of Interior  
Office of the Solicitor**

By: \_\_\_\_\_  
Christopher Watson  
1849 C St. NW, MS 6513 MIB  
Washington, D.C. 20240  
Dated: \_\_\_\_\_  
*Attorneys for Protestant Bureau of  
Indian Affairs*

any purpose, or in connection with any proceeding before a court of law, or any state or federal government regulatory body.

8. This Stipulation may be executed in counterparts or via facsimile or electronic scanning.

**Wolf, Rifkin, Shapiro,  
Schulman & Rabkin, LLP**

**Law Offices of Wes Williams, Jr.**

By: \_\_\_\_\_  
Don Springmeyer, Esq.  
Christopher Mixson, Esq.  
3556 E. Russell Road, 2nd Floor  
Las Vegas, Nevada 89120  
Dated: \_\_\_\_\_  
*Attorneys for Applicant National  
Fish & Wildlife Foundation*

By: \_\_\_\_\_  
Wes Williams, Jr., Esq.  
P.O. Box 100  
Schurz, Nevada 89427  
Dated: \_\_\_\_\_  
*Attorneys for Protestant Walker  
River Paiute Tribe*

**U.S. Dept. Of Interior  
Office of the Solicitor**

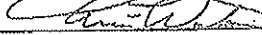
By:  \_\_\_\_\_  
Christopher Watson  
1849 C St. NW, MS 6513 MIB  
Washington, D.C. 20240  
Dated: 9/30/13  
*Attorneys for Protestant Bureau of  
Indian Affairs*

EXHIBIT 1

**LOWER WALKER RIVER CONVEYANCE PROTOCOLS**

Walker River Paiute Tribe (WRPT), U.S. Bureau of Indian Affairs (BIA),  
and National Fish and Wildlife Foundation (NFWF)

September 18, 2013

**1. Purpose**

This document sets forth protocols for conveyance in the Lower Walker River through the Walker River Indian Reservation (WRIR) to Walker Lake of water acquired and/or secured, by purchase, lease, or otherwise, under authority of the Walker Basin Restoration Program in accordance with all necessary approvals (i.e., Program Water or PW). These "Protocols" are designed to provide transparency for the management and administration of Program Water in the Lower Walker River (i.e. from the USGS Gage at Wabuska down to Little Dam). The Protocols explicitly recognize the authority of the Chief Deputy Water Commissioner (i.e. Federal Watermaster or FWM) of the U.S. Board of Water Commissioners to administer water rights under the Walker River Decree, while providing a transparent set of tracking equations (and companion spreadsheet accounting tool) so that WRPT, BIA and NFWF may cooperatively and collaboratively manage Program Water conjunctively with the WRIR Irrigation Water in the Lower Walker River. The Operator of Weber Dam facilities and the Canal 1 and Canal 2 irrigation works (i.e. Operator) is the BIA.

**2. Inputs and Conveyance Reaches**

The Protocols require as an initial input the amount of Program Water that is administered in priority at the Wabuska Gage by the FWM. As with any other water right that is ordered and administered on the Walker River system, the FWM will administer and record the amount of Program Water that reaches the Wabuska gage (in mean daily flow) on a daily basis.

Downstream of the Wabuska Gage, the Protocols (as presented below) provide the measurements and equations necessary to account for gains and losses of Program Water through to Little Dam, just below the final point(s) of diversion at Canals 1 and 2. Program Water will be accounted for in two defined reaches of the Lower Walker River:

1. From the Wabuska Gage to the outlet of Weber Dam,
2. From the outlet of Weber Dam to Little Dam.

The Protocols are designed to be implemented on a daily time step using real-time online data from USGS gages to the extent possible and the best available sources for any other information needed in the Protocols. Most data used in the accounting calculations reflect the average daily values recorded from midnight to midnight of the day previous to operation ( $t=0$ ), conforming to standard USGS reporting procedures. Flow, or  $Q$ , values in the equations below are converted to total daily quantity of water passing a particular gage or location, or the total quantity of water in Weber Reservoir, expressed in a volumetric unit of acre-feet. The conversion factor between cubic feet per second and acre-feet per day shall be 1 cfs equals 1,9835 acre-feet per day (AF/day). The Protocols are simplified by calculating Program Water at all locations on a same day basis, with an implied transit time through Weber Reservoir of one day. The results of the calculations then inform operations, including releases at Weber Dam and

regulation of flow at Little Dam, monitoring and administration for the day after the data was recorded (t+1).

### 3. Program Water at the Wabuska Gage

*Measurement.* Flows are measured by the USGS at the Wabuska Gage (10301500).

*Accounting.* There are two inputs to the Protocols at the Wabuska Gage:

$Q_{wab}$  = Mean daily flow at the Wabuska Gage

$PW_{wab}$  = Mean daily flow of Program Water at the Wabuska Gage (as provided by the FWM)

### 4. Program Water at Weber Dam

*Measurement.* The stage of Weber Reservoir and the amount of water stored are reported by the USGS daily at midnight for the Weber Reservoir gage (10301700). Daily maximum air temperature will be measured by the USGS at or near Weber Dam for estimation of daily evaporation from the water surface of Weber Reservoir. Daily total precipitation at Weber Reservoir will be measured by the USGS from a gage located at or near Weber Dam. Releases from Weber Dam are measured by a USGS gage just downstream of the dam called Walker River at PT site below Weber Reservoir (10301720).

*Accounting.* The Protocols are designed to simplify the accounting process in the reach from the Wabuska Gage to the release point from Weber Reservoir by applying a water balance to develop a daily estimate of unmeasured losses of flow from both the river channel and the reservoir (i.e. losses equal inflows plus change in storage less all outflows). Inputs to the water balance equation include the flow at the Wabuska Gage, the change in Weber Reservoir storage, releases from Weber Reservoir, evaporation, and precipitation. Losses during conveyance of water through the Walker River channel and seepage losses in Weber Reservoir are not differentiated, but are combined into a single river transmission loss variable. Program Water is assumed to pass from the Wabuska Gage through Weber Reservoir over a 24-hour period. Evaporation from Weber Reservoir is not charged to Program Water as it passes through on this single day. Program Water that does not pass through Weber Reservoir within 1 day is assigned a proportional share of reservoir evaporation.

The water balance equation is as follows:

$$LOSS_{tot} = WEB_{t-1} - WEB + Q_{wab} - Q_{webout} + Precip_{web} \quad \text{Eqn. (1)}$$

where:

$LOSS_{tot}$  = total net loss (if positive) or gain (if negative) in the Wabuska through Weber Reservoir reach, which consists of both river transmission losses (including reservoir seepage) and evaporative losses from Weber Reservoir less any direct precipitation on the reservoir.

$WEB_{t-1}$  = beginning of day storage in Weber Reservoir

$WEB$  = end of day storage in Weber Reservoir

$Q_{webout}$  = total daily outflow from Weber Reservoir

$Precip_{web}$  = total daily precipitation at Weber Reservoir

Precipitation on Weber Reservoir, in acre-feet, is calculated as follows with the unit for  $WEB_{surf}$  being acres:

$$Precip_{web} = WEB_{surf} * PPT_{web} / 12 \quad \text{Eqn. (2)}$$

where:

$WEB_{surf}$  = surface area in acres of Weber Reservoir determined based on reservoir stage and published bathymetry

$PPT_{web}$  = daily precipitation at Weber Reservoir, inches

Daily evaporation in acre-feet from Weber Reservoir will be based on the best information available as determined by USGS including the current provisional relationship with air temperature calculated as follows:

$$Evap_{web} = WEB_{surf} * ((0.0003 * Temp_{web}) - 0.0116) \quad \text{Eqn. (3)}$$

where:

$Temp_{web}$  = maximum daily temperature recorded at Weber Reservoir, °F

The river transmission loss,  $LOSS_{riv}$ , is then calculated by subtracting Weber Reservoir evaporation from the total reach loss:

$$LOSS_{riv} = LOSS_{tot} - Evap_{web} \quad \text{Eqn. (4)}$$

The net river loss (or gain) derived in Equation (4) is then assigned proportionally to Program Water based on flow percentage at Wabuska in order to compute the Program Water inflow to Weber Reservoir,  $PW_{webin}$ .

$$PW_{webin} = PW_{wab} - (PW_{wab} / Q_{wab}) * LOSS_{riv} \quad \text{Eqn. (5)}$$

where:

$PW_{webin}$  = Program Water inflow to Weber Reservoir after river transmission losses

Under the Protocols, if a daily gain in flow is calculated, represented by a negative value of  $LOSS_{tot}$ , then gains are likewise allocated proportionally. The proportional allocation of gains is necessary to prevent introduction of bias into the long-term flow accounting.

The total net loss to Program Water in the Wabuska through Weber Reservoir reach,  $PW_{loss}$ , is then calculated by assigning proportional shares of river transmission loss based on flow and evaporative loss based on any Program Water not passed through Weber Reservoir within one day. The evaporative loss is allocated proportionally based on volume of Program Water in Weber Reservoir relative to the total Weber volume at the beginning of the day. The Program Water outflow ( $PW_{webout}$ ) is subtracted from end of prior day Program Water in Weber ( $PW_{web\ t-1}$ ) in the calculation because evaporative loss is not charged to Program Water as it passes through Weber Reservoir nor is it charged to any other Program Water that is released that same day.

$$PW_{loss} = PW_{wab} / Q_{wab} * LOSS_{riv} + (PW_{web\ t-1} - PW_{webout}) / WEB_{t-1} * Evap_{web} \quad \text{Eqn. (6)}$$

where:

$PW_{web\ t-1}$  = Program Water in Weber Reservoir at beginning of day

$PW_{webout}$  = Program Water released from Weber Reservoir

$PW_{webout}$  is back calculated based on actual Program Water observed at Little Dam,  $PW_{ld}$ , and is discussed in the next section.

The end-of-day Program Water not passed through Weber Reservoir,  $PW_{web}$ , is calculated by:

$$PW_{web} = PW_{web\ t-1} + PW_{web} - PW_{webout} - PW_{loss} \quad \text{Eqn. (7)}$$

*Operations.* Under pass-through operations for Program Water, which is the default operation under these Protocols, the Operator will release the calculated Program Water inflow ( $PW_{webin}$ ) on the following day, or on successive days at its discretion, except that NFWF shall always have the right to call for the release of Program Water. If the Operator is also releasing irrigation water then any Program Water release would be added to the irrigation water release.

## 5. Weber Dam to Little Dam

*Measurement.* At Little Dam there are three possible outlets, Canal 1 and Canal 2 that serve the WRIR irrigation project and the downstream outlet to the Walker River. The downstream outlet allows water not diverted at Canals 1 or 2 to flow into the Lower Walker River and on to Walker Lake. The USGS has gages on each of these three routes of river flow at Little Dam: Canal No 1 (10301755), Canal No 2 (10301742), and Walker River above Little Dam (10301745).

*Accounting.* In order to calculate the Program Water released from Weber Reservoir ( $PW_{webout}$ ), as well as to estimate the next day target release of water from Weber Reservoir ( $TPW_{webout\ t+1}$ ) the loss/gain factor between the gage below Weber Dam and Little Dam is needed. Program Water natural flow loss or gain in the reach of the Walker River downstream from Weber Reservoir to Little Dam will be determined by the gaged difference in flow between the USGS gage below Weber Dam and the sum of gaged flows at Little Dam. This loss/gain factor is derived using the observed loss between the gages as follows:

$$LGF = (Q_{webout} - (Q_{canal1} + Q_{canal2} + Q_{ld})) / Q_{webout} \quad \text{Eqn. (8)}$$

where:

$Q_{canal1}$  = Mean daily flow at WRIR Canal 1

$Q_{canal2}$  = Mean daily flow at WRIR Canal 2

$Q_{ld}$  = Mean daily flow at the Little Dam Gage

A positive LGF signifies losses in the reach and a negative LGF signifies gains in the reach.

The loss/gain derived in this fashion is assigned proportionally to Program Water at Little Dam in order to back-calculate the Program Water released from Weber Reservoir for that day and to estimate Program Water targeted for release over Little Dam the next day (t+1). Program Water remaining in Weber Reservoir cannot be negative.

So, Program Water released from Weber Reservoir is determined as follows:

$$PW_{\text{webout}} = PW_{\text{ld}} / (1 - \text{LGF}) \quad \text{Eqn. (9)}$$

where:

$$PW_{\text{ld}} = \text{Lesser of: } Q_{\text{ld}} \text{ or the Program Water available for release, which is } (PW_{\text{web},t-1}) * (1 - \text{LGF})$$

Mean daily flow of Program Water at the Little Dam gage would not normally exceed the Program Water available for release. Losses and gains are to be shared proportionally to avoid long-term bias in gage error, and also to proportionally recover upstream seepage losses, to the degree they may reemerge below Weber Reservoir. Program Water ( $PW_{\text{web}}$ ) will not be charged for flows past Little Dam under that circumstance that no Program Water ( $PW_{\text{webout}}$ ) has been released from Weber Reservoir in the previous or current day.

The calculated next day target release of Program Water over Little Dam is determined by:

$$TPW_{\text{ld},t+1} = TPW_{\text{webout},t+1} * (1 - \text{LGF}) \quad \text{Eqn. (10)}$$

where:

$$TPW_{\text{webout},t+1} = \text{Program Water targeted for release from Weber Reservoir the next day}$$

*Operations.* The Operator will seek to control diversions down the Canals so as to allow the targeted amount of Program Water ( $TPW_{\text{ld},t+1}$ ) to flow past Little Dam.

*Monitoring.* NFWF can directly monitor the flow of Program Water over Little Dam and the amount of Program Water as accounted for in Weber Reservoir.

*Administration.* There are no further water right deliveries or diversions below Little Dam. Little Dam is therefore the last point in the Walker River system for NFWF to call on the FWM for water rights administration. Good faith operations by the Operator, consistent with the intent and content of these Protocols, should obviate the need for active administration at Little Dam.

## 6. Little Dam to Walker Lake

*Measurement.* Flows downstream of Little Dam are measured by USGS gages including one located near the mouth of Walker Lake (10302025).

*Accounting.* Program Water reaching Walker Lake may be calculated by subtracting any observed losses between the Little Dam and Walker River near mouth gages.

*Operations, Monitoring and Administration.* There is no need for operations by BIA, compliance monitoring by NFWF, or water rights administration by the FWM below Little Dam due to the lack of other water right deliveries or diversions by the WRPT. However, NFWF may monitor flows downstream of Little Dam and account for losses to Program Water and any other water flowing past Little Dam, in order to estimate Program Water contributions to Walker Lake inflow for program evaluation purposes.



CERTIFICATE OF MAILING

I certify that I am an employee of the law office of Wolf, Rifkin, Shapiro, Schulman and Rabkin, LLP, and that on this date I caused to be served on Kristen Geddes with the Nevada State Engineer by express delivery, and the remaining parties via U.S. Mail a true and correct copy, of the foregoing **STIPULATION TO RESOLVE CERTAIN PROTESTS REGARDING APPLICATION NO. 80700** on the following persons and/or entities:

**Via Federal Express**  
Kristen Geddes  
Nevada State Engineer  
901 South Stewart St., Suite 2002  
Carson City, NV 89701-5250

**Via Regular U.S. Mail**  
Christopher Watson, Esq.  
U.S. Department of the Interior  
Office of the Solicitor  
1849 C St., NW, MS 6513 MIB  
Washington, DC 20240  
christopher.watson@sol.doi.gov  
*Attorneys for U.S. Bureau of Indian Affairs*

Karen Peterson, Esq.  
Allison, MacKenzie Law Firm  
402 North Division Street  
Carson City, Nevada 89702  
kpeterson@allisonmackenzie.com  
*Attorneys for U.S. Board of Water Commissioners*

Gordon DePaoli, Esq.  
Dale Ferguson, Esq.  
Woodburn and Wedge  
6100 Neil Road, Ste. 500  
Reno, Nevada 89511  
gdepaoli@woodburnandwedge.com  
dferguson@woodburnandwedge.com  
*Attorneys for Walker River Irrigation District*

Linda Bowman, Esq.  
P.O. Box 10306  
Reno, Nevada 89510-0306  
linda@bowman.reno.nv.us  
*Attorney for Gary G. Garms, Peter A. Fenili,  
Gary M. Berrington, Sattelmeyer-Rosse  
Ranch Management, LLC, et al.*

Wes Williams, Jr., Esq.  
P.O. Box 100  
Schurz, Nevada 89427  
wwilliamslaw@gmail.com  
*Attorneys for Walker River Paiute Tribe*

George Benesch, Esq.  
190 W. Huffaker Lane, Ste. 408  
Reno, Nevada 89511  
gbenesch@sbcglobal.net  
*Attorney for Lyon County*

Stephen B. Rye, Esq.  
215 W. Bridge St., Ste. 3  
Yerington, Nevada 89447  
stephenbrye@yahoo.com  
*Attorney for Mickey Mut. Ditch Co., G&H  
Mut. Ditch Co., Greenwood Mut. Ditch Co.,  
Campbell Canal Co.*

Joseph Sceirine  
P.O. Box 1013  
Yerington, Nevada 89447

Louis Scatena  
1275 Hwy 208  
Yerington, Nevada 89477

Jim Snyder  
P.O. Box 550  
Yerington, Nevada 89447  
*for Jim Snyder, Eddie R. Snyder, Eufrazia  
LLC, Spragg-Woodcock Mut. Ditch Co., et  
al.*

Campbell Canal Co.  
c/o Rife and Associates  
David Sceirine, President  
22 Hwy 208  
Yerington, Nevada 89447

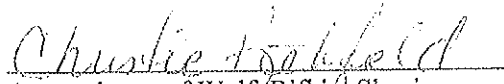
D & GW Ditch Co.  
Louis Scatena, Secretary  
1275 Hwy 208  
Yerington, Nevada 89447

Tunnel Ditch Co.  
Louis Scatena, Secretary  
984 State Rte. 208  
Yerington, Nevada 89447

Newhall Mutual Ditch Co.  
Darrell E. Pursel, President  
42 McKenzie Lane  
Yerington, Nevada 89447

David Sceirine  
P.O. Box 239  
Yerington, Nevada 89447

Dated this 3<sup>rd</sup> day of October, 2013.

  
An employee of Wolf, Rifkin, Shapiro,  
Schulman & Rabkin, LLP



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: Solid Waste**

**TIME REQUIRED** 15 minutes

**PERSONS  
APPEARING  
BEFORE THE  
BOARD** Tony Dublino

**SUBJECT** Inflationary Increase to Service Fee  
Floors for D&S Waste and Mammoth

---

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Amendment to Franchise Agreements with D&S Waste and Mammoth Disposal, reflecting inflationary increase to floor rates.

---

### RECOMMENDED ACTION:

Consider and possibly approve amendment to Franchise Agreements with D&S Waste Removal, Inc. and Mammoth Disposal, Inc. to reflect inflationary adjustments to service fee floor rates for waste collection services.

---

### FISCAL IMPACT:

Minor increases in franchise fees (approximately \$500 annually) paid to the County.

---

**CONTACT NAME:** Tony Dublino

**PHONE/EMAIL:** 760 932 5453 / tdublino@mono.ca.gov

---

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

---

### MINUTE ORDER REQUESTED:

YES  NO

---

### ATTACHMENTS:

Click to download

- [Increase of Fee floor](#)
- [Agreement Amendment D&S](#)
- [Exhibit existing](#)
- [Agreement Amendment Mamm Disposal](#)
- [Exhibit revised](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
12/27/2013 11:35 AM	County Administrative Office	Yes
12/30/2013 12:08 PM	County Counsel	Yes
12/30/2013 3:13 PM	Finance	Yes



# MONO COUNTY DEPARTMENT OF PUBLIC WORKS SOLID WASTE DIVISION

POST OFFICE BOX 457 • 74 NORTH SCHOOL STREET • BRIDGEPORT, CALIFORNIA 93517  
760.932.5440 • FAX 760.932.5441 • [monopw@mono.ca.gov](mailto:monopw@mono.ca.gov) • [www.monocounty.ca.gov](http://www.monocounty.ca.gov)

**Date:** January 7, 2014  
**To:** Honorable Chair and Members of the Board of Supervisors  
**From:** Tony Dublino, Solid Waste Superintendent  
**Subject:** CPI/PPI Adjustment to Waste Collection Franchise Floor Rates

## **Recommended Action:**

Authorize the CAO to execute amendments to the primary waste collection franchise agreements with D&S Waste Removal and Mammoth Disposal to adjust the Service Fee Floors specified in Exhibit 13.01a to reflect CPI/PPI factors. Provide any desired direction to staff.

## **Fiscal Impact:**

Minor increases in franchise fees (approximately \$500 annually) paid to the County.

## **Discussion:**

At the Board's December 17<sup>th</sup> meeting, staff recommended Board adoption of a requested increase to the Franchise Floor Rates for garbage collection services in the County, based on CPI/PPI figures developed by the US Bureau of Labor Statistics.

The Board requested additional information and justification for this increase from the waste haulers. Staff has requested the information from the haulers, but had not received anything as of the agenda deadline. The information will be forwarded as it is received.

In reviewing the basis for the CPI/PPI calculations, staff also made a minor adjustment in the method of calculating the proposed increase. In short, the CPI and PPI reports for August 2013 are the most relevant to calculating the factors as described in the contract. In the December 17<sup>th</sup>, 2013 packet, the September 2013 reports had been used. The adjustment changes the total increase from 1.72% to 1.95%.

The primary franchise agreements for waste collection services provide that Exhibit 13.01a, which specifies the Service Fee Floors (minimum rates that the franchisees may charge their customers for each type of service), may be adjusted based on CPI/PPI inflationary factors.

In order for these inflationary factors to be incorporated, the franchisees must first request the increase, and the Board must approve of the increase. Both franchisees, D&S Waste and Mammoth Disposal, requested CPI/PPI increases to be implemented in early 2013. This request did not follow the procedures and timeframes established in the franchise contracts, however, and when the Board was updated on these matters in April of 2013, there was not direction to process the requests at that time.

Instead, staff recommended the requested CPI/PPI increases be brought to the Board as the contracts establish. This item fulfills that request.

Should the Board approve, the calculated adjustment of 1.95% will be applied to fees in Exhibit 13.01a, effective January 1, 2014. This adjustment combines a CPI increase for "Garbage and Trash

Collection” of 2.7%, which is applied to 75% of the fee; and a PPI *decrease* of 1.6% for No. 2 Diesel, which is applied to 5% of the fee. The combination of these factors yields a 1.95% increase overall.

Businesses and residents who subscribe for waste collection services will see a rate increase as a result of this action only if their provider currently charges the minimum fees allowable. The proposed action will not result in an expense to the County but it may increase the franchise fee revenues paid to the County by haulers since it is based on their gross revenues.

Through their billing statement, franchise haulers have the opportunity to communicate the reasons behind changes in their invoicing. Article 8.08 of the franchise contracts allows the county to review, accept, or reject these materials. Based on comments during the December 17 meeting, staff has changed the proposed amendments to include a requirement that both franchisees provide a brief explanation of the increase, if any, in their January 2014 and February 2014 invoices. The explanation will read:

“This month’s bill includes a 1.95% increase reflecting an inflation factor based on the Consumer Price Index and Producer Price Index for September 2012 - September 2013, and is not related to increases in County fees.”

If you have any questions regarding this item, please contact me at 760.932.5453 or by email at tdublino@mono.ca.gov.

Respectfully submitted,



Tony Dublino  
Solid Waste Superintendent

Attachment: Attachment A – CPI / PPI Worksheet  
Draft Amendments  
Existing Exhibit 13.01a  
Revised Exhibit 13.01a

**AGREEMENT AND SECOND AMENDMENT TO THE PRIMARY FRANCHISE  
AGREEMENT BETWEEN THE COUNTY OF MONO AND  
D&S WASTE REMOVAL, INC.,  
FOR COLLECTION OF SOLID WASTE  
FROM RESIDENTIAL AND COMMERCIAL CUSTOMERS  
IN UNINCORPORATED MONO COUNTY**

This Agreement and Amendment is entered into on January 7, 2014, by and between the County of Mono (hereinafter, "County"), a political subdivision of the State of California, and D&S Waste Removal, Inc. (hereinafter, "Contractor"), for the purposes of amending that certain Agreement between the County and Contractor dated July 1, 2011, and as subsequently amended. The County and Contractor are referred to herein collectively as "the parties."

**I. Recitals.**

A. On July 1, 2011, the parties entered into an agreement with respect to the provision of residential and commercial solid waste collection services in the unincorporated areas of Mono County. The agreement is referred to herein as the "Franchise Agreement." The Franchise Agreement is incorporated herein by this reference as though fully set forth; and,

B. Pursuant to Section 13.01b of the Franchise Agreement, the Service Fees set forth in Exhibit 13.01a (hereinafter, the "Service Fee Floors") may be adjusted based on the prior year's Consumer Price Index and Producer Price Index (CPI/PPI), upon approval by the Board; and,

C. In accordance with Section 13.01d1, the parties wish to amend the Franchise Agreement to adjust the Service Fee Floors set forth in Exhibit 13.01a of the Franchise Agreement using the relevant CPI/PPI factor for September 2012 through September 2013, as published in September 2013 reports by the U.S. Bureau of Labor Statistics.

**II. Terms and Conditions.**

The parties hereto agree as follows:

1. The Service Fee Floors set forth in the current Exhibit 13.01a (enacted by Amendment dated January 22, 2013), shall be adjusted upward by 1.95 percent, and rounded to three significant figures as shown on the Revised Exhibit 13.01a, which is attached hereto and incorporated by this reference. The Revised Exhibit 13.01a shall replace and supersede the current Exhibit 13.01a.
2. Franchisee shall include the following statement on customer invoices in January and February of 2014 (if the amount billed is increased): "This month's bill includes a 1.95% increase reflecting an inflation factor based on the

Consumer Price Index and Producer Price Index for September 2012 - September 2013, and is not related to increases in County fees.”

- 3. All other provisions of the Franchise Agreement shall remain in full force and effect.

**III. Execution.**

IN WITNESS of the foregoing, the parties have signed this Agreement and Amendment through their duly-authorized representatives, as set forth below:

County:

Contractor:

---

Jim Leddy  
Mono County CAO

---

Darrol Brown, President  
D&S Waste Removal, Inc.

Approved as to Form:

---

Mono County Counsel



**EXHIBIT 13.01a: SERVICE FEE FLOORS**

Franchisee will not charge Customers Service Fees that are less than those identified below:

<b>RESIDENTIAL RATES</b>		<b>COMMERCIAL RATES</b>							
<b>CANS, CARTS, VOLUME</b>		<b>BINS</b>			<b>DEBRIS BOXES</b>		<b>COMPACTOR</b>		
Size <sup>2</sup>	“A”	Size <sup>2</sup>	“A”	“B”	Size <sup>2</sup>	“B”	Size <sup>2</sup>	“B”	
1 35-gal. Can	\$17.00 <sup>4</sup>	1 cy	\$111	\$25.60	10 cy	\$387	10 cy	\$356	
2 35-gal. Cans	\$22.30 <sup>4</sup>	2 cy	\$152	\$35.20	20 cy	\$649	20 cy	\$711	
1 95-gal. Toter	\$34.00	3 cy	\$196	\$45.10	30 cy	\$887	30 cy	\$1,068	
2 95-gal. Toters	\$46.90	4 cy	\$229	\$52.90	40 cy	\$1,236	40 cy	\$1,418	
1 cubic yard (cy)	\$27.40 <sup>5</sup>	6 cy	\$297	\$68.40					

Notes:

1. Rates will be adjusted annually in accordance with the formula set forth in section 13.01c1.
2. Sizes are nominal values, not precise volumes. Fees for nominal container volumes that fall in between or higher than those listed will be determined by linear interpolation or extrapolation, respectively, and rounded to the nearest three significant figures.
3. Service fee categories identified above are as follows: “A” = cost per month; “B” = cost per dump.
4. Customer-provided can.
5. Or, approximately equivalent to six 35-gallon cans.

**COUNTY-APPROVED EXISTING AGREEMENTS:**

- 1.
- 2.
- 3.
- 4.
- 5.

**AGREEMENT AND SECOND AMENDMENT TO THE PRIMARY FRANCHISE  
AGREEMENT BETWEEN THE COUNTY OF MONO AND  
MAMMOTH DISPOSAL, INC., FOR COLLECTION OF SOLID WASTE  
FROM RESIDENTIAL AND COMMERCIAL CUSTOMERS  
IN UNINCORPORATED MONO COUNTY**

This Agreement and Amendment is entered into on January 7, 2014, by and between the County of Mono (hereinafter, "County"), a political subdivision of the State of California, and D&S Waste Removal, Inc. (hereinafter, "Contractor"), for the purposes of amending that certain Agreement between the County and Contractor dated July 1, 2011, and as subsequently amended. The County and Contractor are referred to herein collectively as "the parties."

**I. Recitals.**

A. On July 1, 2011, the parties entered into an agreement with respect to the provision of residential and commercial solid waste collection services in the unincorporated areas of Mono County. The agreement is referred to herein as the "Franchise Agreement." The Franchise Agreement is incorporated herein by this reference as though fully set forth; and,

B. Pursuant to Section 13.01b of the Franchise Agreement, the Service Fees set forth in Exhibit 13.01a (hereinafter, the "Service Fee Floors") may be adjusted based on the prior year's Consumer Price Index and Producer Price Index (CPI/PPI), upon approval by the Board; and,

C. In accordance with Section 13.01d1, the parties wish to amend the Franchise Agreement to adjust the Service Fee Floors set forth in Exhibit 13.01a of the Franchise Agreement using the relevant CPI/PPI factor for September 2012 through September 2013, as published in September 2013 reports by the U.S. Bureau of Labor Statistics.

**II. Terms and Conditions.**

The parties hereto agree as follows:

1. The Service Fee Floors set forth in the current Exhibit 13.01a (enacted by Amendment dated January 22, 2013), shall be adjusted upward by 1.95 percent, and rounded to three significant figures as shown on the Revised Exhibit 13.01a, which is attached hereto and incorporated by this reference. The Revised Exhibit 13.01a shall replace and supersede the current Exhibit 13.01a.
2. Franchisee shall include the following statement on customer invoices in January and February of 2014 (if the amount billed is increased): "This month's bill includes a 1.95% increase reflecting an inflation factor based on the Consumer Price Index and Producer Price Index for September 2012 - September 2013, and is not related to increases in County fees."

3. All other provisions of the Franchise Agreement shall remain in full force and effect.

**III. Execution.**

IN WITNESS of the foregoing, the parties have signed this Agreement and Amendment through their duly-authorized representatives, as set forth below:

County:

Contractor:

---

Jim Leddy  
Mono County CAO

---

Rick Vahl, Manager  
Mammoth Disposal, Inc.

Approved as to Form:

---

Mono County Counsel

**EXHIBIT 13.01a: SERVICE FEE FLOORS**

Franchisee will not charge Customers Service Fees that are less than those identified below:

<b>RESIDENTIAL RATES</b>		<b>COMMERCIAL RATES</b>							
<b>CANS, CARTS, VOLUME</b>		<b>BINS</b>			<b>DEBRIS BOXES</b>		<b>COMPACTOR</b>		
Size <sup>2</sup>	"A"	Size <sup>2</sup>	"A"	"B"	Size <sup>2</sup>	"B"	Size <sup>2</sup>	"B"	
1 35-gal. Can	\$17.33 <sup>4</sup>	1 cy	\$113	\$26.10	10 cy	\$395	10 cy	\$363	
2 35-gal. Cans	\$22.73 <sup>4</sup>	2 cy	\$155	\$35.89	20 cy	\$662	20 cy	\$725	
1 95-gal. Toter	\$34.66	3 cy	\$200	\$45.98	30 cy	\$904	30 cy	\$1,089	
2 95-gal. Toters	\$47.81	4 cy	\$233	\$53.93	40 cy	\$1,260	40 cy	\$1,446	
1 cubic yard (cy)	\$27.93 <sup>5</sup>	6 cy	\$303	\$69.73					

## Notes:

1. Rates will be adjusted annually in accordance with the formula set forth in section 13.01c1.
2. Sizes are nominal values, not precise volumes. Fees for nominal container volumes that fall in between or higher than those listed will be determined by linear interpolation or extrapolation, respectively, and rounded to the nearest three significant figures.
3. Service fee categories identified above are as follows: "A" = cost per month; "B" = cost per dump.
4. Customer-provided can.
5. Or, approximately equivalent to six 35-gallon cans.

**COUNTY-APPROVED EXISTING AGREEMENTS:**

- 1.
- 2.
- 3.
- 4.
- 5.



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: CAO, County Counsel, Clerk of the Board**

**TIME REQUIRED** 30 minutes (10 minute presentation;  
20 minute discussion)

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

Jim Leddy

**SUBJECT** Mono County Board Rules of  
Procedures

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

The Board's current rules were adopted on February 6, 1978. Since that time, some changes in law and practice have occurred, one of which is addressed through a policy regarding items generated from outside the County and incorporated through Resolution No. 00-34 adopted May 2, 2000. Both of these documents have been included in your packet for reference. Once adopted, the new rules will supersede and replace all rules of procedure previously adopted by the Board. Attached for the Board's consideration is a copy of the draft Mono County Board Rules of Procedures. The Rules as drafted are consistent with law and generally reflect current practices of the Board. They were based substantially on Sonoma County's Board Rules.

### RECOMMENDED ACTION:

Discuss draft Mono County Board Rules of Procedures and provide direction to staff. Staff recommends these rules be reviewed annually and adopted in January of each year as well as used during new Board member orientation to set clear expectations and define roles.

### FISCAL IMPACT:

None.

**CONTACT NAME:** Jim Leddy

**PHONE/EMAIL:** (760) 932-5414 / jleddy@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY  
32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

**Click to download**

- [Board Rules Staff Report](#)
- [Draft Mono County Board Rules of Procedure](#)
- [1978 Board Rules and Procedures](#)
- [Resolution No. R00-34](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
12/23/2013 7:09 AM	County Administrative Office	Yes
12/30/2013 8:50 AM	County Counsel	Yes
12/30/2013 3:06 PM	Finance	Yes



# COUNTY OF MONO

---

P.O. BOX 696, BRIDGEPORT, CALIFORNIA 93517  
(760) 932-5410 • FAX (760) 932-5411

Jim Leddy  
County Administrative Officer

Bill Van Lente  
Director of HR/Risk Management

January 7, 2014

To: Honorable Chair and Members of the Board of Supervisors  
From: Jim Leddy, County Administrative Officer

## **SUBJECT**

Mono County Board Rules of Procedures

## **RECOMMENDATION**

Discuss Mono County Board Rules of Procedures and provide direction to staff

## **FISCAL IMPACT**

None

## **DISCUSSION**

Section 25300 of the Government Code enables the Board of Supervisors to make and enforce rules and regulations necessary for the government of the Board, the preservation of order, and the transaction of business.

The Board's current rules were adopted on February 6, 1978. Since that time, some changes in law and practice have occurred, one of which is addressed through a policy regarding items generated from outside the County and incorporated through Resolution No. 00-34 adopted May 2, 2000. Both of these documents have been included in your packet for reference. Once adopted, the new rules will supersede and replace all rules of procedure previously adopted by the Board.

Attached for the Board's consideration is a copy of the draft Mono County Board Rules of Procedures. The Rules as drafted are consistent with law and generally reflect current practices of the Board. They were based substantially on Sonoma County's Board Rules.

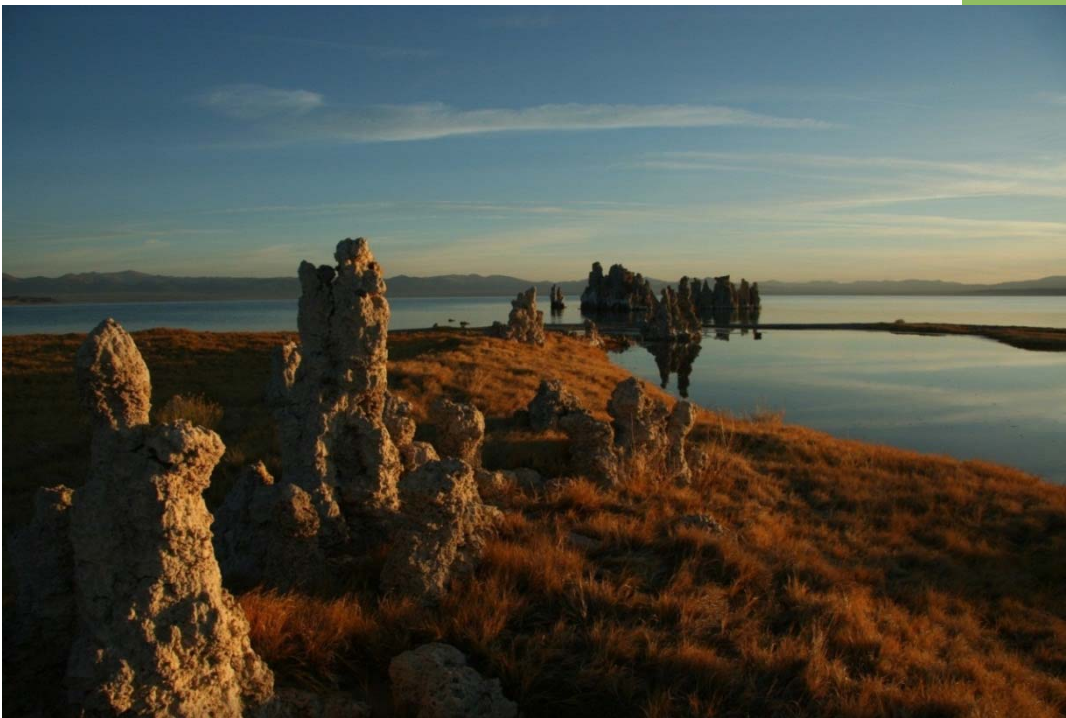
Staff would like to highlight for discussion one item that would be different from current practice: the concept of electing a Chair Pro-Tempore. The responsibilities of this position are detailed in section IV of the draft rules as follows, "*If both the Chair and the Vice-Chair are absent or unable to participate, the Chair Pro-Tempore shall call the meeting to order, serve as the presiding officer and shall have and exercise all power and duties of the Chair for the meeting.*" This concept also potentially extends leadership succession among Board members.

Staff recommends these rules be reviewed annually and adopted in January of each year as well as used during new Board member orientation to set clear expectations and define roles.

If you have any questions please contact me at (760) 932-5410 or [jleddy@mono.ca.gov](mailto:jleddy@mono.ca.gov).

# Mono County Board of Supervisors

## Board Rules of Procedures



Adopted Date:





---

<b>I.</b>	<b>PURPOSE .....</b>	<b>1</b>
<b>II.</b>	<b>GENERAL.....</b>	<b>1</b>
	Rule 1. Applicability of Rules .....	1
	Rule 2. Definitions .....	1
<b>III.</b>	<b>MEETINGS.....</b>	<b>1</b>
	Rule 3. Regular Meetings and Annual Calendar .....	1
	Rule 4. Special Meetings, Budget Hearings, Workshops and Planning Meetings .....	2
	Rule 5. Emergency Meetings.....	2
	Rule 6. Closed Sessions .....	2
<b>IV.</b>	<b>ELECTIONS, POWERS, AND DUTIES OF THE CHAIR, VICE-CHAIR, AND CHAIR PRO-TEMPORE.....</b>	<b>2</b>
	Rule 7. Annual Selection of Chair and Vice Chair.....	2
	Rule 8. Powers of Chair, Vice-Chair, and Chair Pro-Tempore .....	2
<b>V.</b>	<b>AGENDAS AND AGENDA MATERIALS .....</b>	<b>3</b>
	Rule 9. Meeting Agenda.....	3
	Rule 10. Addendums/Supplemental Agenda Items.....	3
	Rule 11. Use of Novus Agenda Software.....	3
	Rule 12. Department/Agency Agenda Responsibilities .....	3
	Rule 13. Review and Filing of Agenda Items .....	3
	Rule 14. Board Correspondence .....	3
	Rule 15. Supplemental Correspondence and Information Prior to Board Meeting and During the Board Meeting .....	4
<b>VI.</b>	<b>CONDUCT OF BUSINESS .....</b>	<b>4</b>
	Rule 16. Order of Business .....	4
	Rule 17. Board Member; Notification of Absence .....	4
	Rule 18. Quorum and Action.....	4
	Rule 19. Matters Not on the Agenda/Emergency Items.....	5
	Rule 20. Consent/Regular Calendar Items .....	5
	Rule 21. Public Hearings.....	5
<b>VII.</b>	<b>PROCEDURE AND VOTING .....</b>	<b>6</b>
	Rule 22. Order and Decorum .....	6
	Rule 23. Commitment to Civility .....	6
	Rule 24. Use of Electronic devices and documents .....	7
	Rule 25. Motions – General.....	7
	Rule 26. Voting .....	7
	Rule 27. Roll Call Votes.....	7
	Rule 28. Conflicts of Interest.....	7
	Rule 29. Motion to Rescind .....	8

---

# Mono County Board Rules of Procedures

## Table of Contents

---

Rule 30.	Motion to Reconsider .....	8
Rule 31.	Substitute Motion .....	8
Rule 32.	Ordinances .....	8
Rule 33.	Planning Matters – Request for Continuance.....	9
Rule 34.	Planning Matters – Original Jurisdiction .....	9
<b>VIII.</b>	<b>DUTIES OF COUNTY STAFF DURING BOARD MEETINGS.....</b>	<b>9</b>
Rule 35.	County Administrator.....	9
Rule 36.	County Counsel .....	9
Rule 37.	Clerk of the Board .....	9
Rule 38.	Sheriff .....	10
Rule 39.	Department and Agency Directors .....	10
<b>IX.</b>	<b>COMMITTEES.....</b>	<b>10</b>
Rule 40.	Board Committees/Assignments and Reporting Requirements.....	10
Rule 41.	Standing Committees.....	10
Rule 42.	Ad-Hoc Committees .....	10
<b>X.</b>	<b>OTHER .....</b>	<b>11</b>
Rule 43.	Board Member Referrals to Staff.....	11
Rule 44.	Action Summaries and Recordings of Meetings .....	11
<b>XI.</b>	<b>PARTICIPATION OF THE PUBLIC.....</b>	<b>11</b>
Rule 45.	Public Comment / Time Limits .....	11
Rule 46.	Orderly Conduct .....	11
Rule 47.	Security and Prohibition of Banners/Signs or other Hazardous Objects.....	12
<b>XII.</b>	<b>Appendix A. Order of Agenda .....</b>	<b>13</b>
<b>XIII.</b>	<b>APPENDIX B. 4/5ths and Unanimous Vote Requirements .....</b>	<b>14</b>
<b>XIV.</b>	<b>Appendix C. Request to place an Item on the Board’s Agenda .....</b>	<b>19</b>

**RULES OF PROCEDURE**

**OF THE BOARD OF SUPERVISORS**

**MONO COUNTY, CALIFORNIA**

**I. PURPOSE**

The purpose of these Rules of Procedures (“Rules”) is to foster understanding and respect for the democratic process, facilitate compliance with applicable laws, encourage public participation, provide guidance on decorum, and enhance effective and efficient management of Board meetings.

**II. GENERAL**

**Rule 1. Applicability of Rules**

These Rules are adopted pursuant to Government Code §25003. The Rules shall apply to the Board of Supervisors of the County of Mono whether sitting as the Board of Supervisors of the County or as the governing board of any other district, commission, authority or board.

These Rules are intended to expedite the transaction of business of the Board in an orderly fashion, and are deemed to be procedural only. The failure to strictly observe application of the Rules shall not affect the jurisdiction of the Board or invalidate any action taken at a meeting that is otherwise held in conformity with the law. Except as otherwise provide by law, these Rules, or any one of them, may be suspended by a majority of the Board.

These Rules supersede and replace all rules of procedure previously adopted by the Board.

**Rule 2. Definitions**

In interpreting these Rules:

- a) “Board” refers to the Board of Supervisors of Mono County, whether sitting as the Board of Supervisors of the County or as the governing body of any other district, authority or board
- b) “Board member” refers to a member of the Board
- c) “Chair” and “Vice Chair” refers to the Board members elected to those respective offices
- d) “Clerk” refers to the Clerk of the Board of Mono County
- e) “County Administrator” refers to the County Administrative Officer of Mono County

**III. MEETINGS**

**Rule 3. Regular Meetings and Annual Calendar**

Regular meetings generally shall be held on the first three Tuesdays of every month Any meeting may be cancelled upon the order of the Chair, or by a majority of the members of the Board.

Regular meetings shall commence at 9:00 a.m. The first two regular meetings of the month shall be held at the Board of Supervisors Chambers, 2nd Floor, County Courthouse, 278 Main Street, Bridgeport, California; the third regular meeting of the month shall be held in the Board of Supervisors Meeting Room, 3rd Floor, Sierra Center Mall, Suite 307, 452 Old Mammoth Road, Mammoth Lakes, California. Videoconferencing will be

## **Mono County Board Rules of Procedures**

---

available each week between Bridgeport and Mammoth Lakes. Business shall normally be conducted between 9:00 a.m. and 5:00 p.m., but may continue past 5:00 p.m., without objection from the members present.

An annual calendar of meetings shall be adopted by the Board at their first meeting in January. The calendar will include all known regular meetings. Any meeting may be canceled upon the order of the Chair, or by a majority of Board members.

### **Rule 4. Special Meetings, Budget Hearings, Workshops and Planning Meetings**

Special meetings may be called at any time by the Chair, or by a majority of the members. Upon the call of a special meeting, the Clerk will prepare and distribute, at least 24 hours before the time of the special meeting, written notice to each member and to a local newspaper of general circulation. The notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings (Government Code §54956).

Budget Hearings, Workshops, Study Sessions and Planning Meetings may be called by the Chair or by a majority of the Board at times and locations in accordance with the law and specified notice provisions.

### **Rule 5. Emergency Meetings**

Emergency meetings may be called by the Chair or by a majority of the Board, in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities. Upon the call of an emergency meeting, the Clerk shall give notice of the meeting, and comply with posting requirements (Government Code §54956.5).

### **Rule 6. Closed Sessions**

Closed sessions of the Board can be called by the Chair or by a majority of the Board, for those purposes allowed by law (Government Code §54956.7).

Prior to holding any closed session, the Chair shall announce the session in an open meeting, and shall provide an opportunity for public comment on items on the closed session agenda. During the closed session the Board may consider only those items on the agenda. At the conclusion of the closed session the Board shall report, in an open meeting, as required by law, action taken (Government Code §54957.1).

## **IV. ELECTIONS, POWERS, AND DUTIES OF THE CHAIR and, VICE-CHAIR, AND CHAIR PRO-TEMPORE**

### **Rule 7. Annual Selection of Chair and Vice Chair**

At its first regular meeting, after January 1<sup>ST</sup> of each year, the Board shall nominate and elect from its membership a Chair, Vice Chair, and a Chair Pro-Tempore. The Chair shall call the meeting to order and the first order of business shall be the election of officers for the ensuing calendar year. The Chair, Vice Chair, and Chair Pro-Tempore shall serve until the election of their successors.

### **Rule 8. Powers of Chair, Vice-Chair, and Chair Pro-Tempore**

The Chair shall serve as presiding officer of the Board, rule on questions of procedure, appoint members to committees and special assignments, and execute official Board records and documents presented by the County Administrator/Clerk. In the absence or unavailability of the Chair, the Vice-Chair shall call the meeting to order and serve as presiding officer. The Vice-Chair shall have and exercise all powers and duties of the

Chair for meetings over which he or she is called to preside and at ceremonial and official functions, which the Chair cannot attend.

If both the Chair and the Vice-Chair are absent or unable to participate, the Chair Pro-Tempore shall call the meeting to order, serve as the presiding officer, and shall have and exercise all power and duties of the Chair for the meeting over which he or she is called to preside and at ceremonial and official functions, which the Chair or Vice Chair cannot attend.

**V. AGENDAS AND AGENDA MATERIALS**

**Rule 9. Meeting Agenda**

At least 72 hours before a regular meeting, the Clerk shall post an agenda. The agenda shall consist of a brief statement of each item to be considered by the Board (Government Code §54950). The agenda shall indicate the time and location of the meeting and shall be posted as required by law.

**Rule 10. Addendums/Supplemental Agenda Items**

The Clerk shall prepare, post, and distribute all addendums/supplemental agendas when there has been an item added, continued, deleted, and/or modified since the distribution of the initial meeting agenda.

**Rule 11. Use of Novus Agenda Software**

All Departments/Agencies shall use Novus Agenda Software to prepare agenda items and submit supporting documents. Departments will work directly with the Clerk of the Board if they require assistance in creating an agenda item.

**Rule 12. Department/Agency Agenda Responsibilities**

When submitting an item for consideration by the Board, it is the responsibility of the originating Department /Agency to provide all required information, and to meet all established deadlines. Exceptions to deadlines will be considered if items are deemed to be time sensitive or of special importance to a Board member. The Clerk of the Board will work directly with departments to add agenda items after the deadline, or may require departments to obtain approval of the CAO prior to adding late items. Board members may work with the CAO, Clerk of the Board, or pertinent department head when needing to add items to an agenda.

Outside agencies and citizens will work with the Clerk of the Board when requesting an agenda item for Board consideration, and will follow established guidelines found in Appendix C (Request to place an Item on the Board's Agenda).

**Rule 13. Review and Filing of Agenda Items**

After preparing agenda items in Novus Agenda, all items will require review by the County Administrator, County Counsel, and Finance Director. Any one of these three reviewers may ask for additional information, clarification, and may determine not to place any item on the agenda that is not complete or is not submitted in accordance with instructions. Without amendment to these Rules, agenda submittal instructions may be amended or additional requirements imposed to ensure appropriate review and Brown Act compliance.

## **Mono County Board Rules of Procedures**

---

### **Rule 14. Board Correspondence**

Correspondence addressed to the Board of Supervisors will be placed on the agenda by the Clerk of the Board. If the Clerk determines that correspondence is legally questionable, objectionable, or of no interest to the public, she/he will receive direction from the CAO, County Counsel, and/or Board members prior to including the correspondence on the agenda. If the Clerk receives correspondence from County departments addressed to the Board, such correspondence will be forwarded to the Board members and CAO and not added to the agenda.

### **Rule 15. Supplemental Correspondence and Information Prior to Board Meeting and During the Board Meeting**

- a) After Initial Agenda Distribution and Prior to the Meeting Rule - Agenda materials distributed, via mail, email, or hand delivered by the public to a majority of the Board or their staff, that is distributed or redistributed to another County employee, must be forwarded to the Clerk for public review.
- b) At the Meeting Rule - Documents, including PowerPoint handouts, distributed to Board members by County employees or Board members themselves at the meeting, shall be kept to a minimum. When necessary to distribute materials at the meeting, 20 copies shall be provided to the Clerk for distribution to: Board members, County Administrator, County Counsel, and the Clerk, with remaining copies available for distribution to the general public. If large numbers of the public are anticipated to attend the Board Meeting on a matter and new information will be distributed to the Board members, then the number of copies should be increased to anticipate the number needed for the public.

Any supplemental correspondence or written information related to an agenda item which is provided to three or more Board members, and/or members of their staffs, shall be concurrently filed with the Clerk and made a part of the official record. This Rule shall not apply to attorney-client privileged communications.

Sufficient copies of supplemental correspondence and information should be delivered to the Clerk and the Clerk shall make the appropriate distribution to the Board, CAO and County Counsel.

## **VI. CONDUCT OF BUSINESS**

### **Rule 16. Order of Business**

The Board shall conduct business in the order specified in the posted agenda or as modified at the discretion of the Chair. Without amending these Rules, the Board may modify or amend the Order of Business for Regular meetings, which shall be attached to these Rules as Appendix A.

### **Rule 17. Board Member; Notification of Absence**

If any Board member is unable to attend a meeting of the Board, all reasonable efforts shall be made to notify the Chair, County Administrator, and the Clerk, in writing (electronic mail or regular mail) and as soon as possible to ensure there are sufficient members present to consider all agenda items.

### **Rule 18. Quorum and Action**

Three members of the Board shall constitute a quorum sufficient to transact business. In the absence of a quorum, the remaining members or the Clerk may adjourn the meeting to another date and time in accordance with Government Code §54944 and shall post a Notice of Adjournment.

**Rule 19. Matters Not on the Agenda/Emergency Items**

No action shall be taken on any item not appearing on the posted agenda except:

- a) Upon a majority vote of the Board that an emergency situation exists as defined in Government Code §54956.5;
- b) Upon a determination by a four-fifths (4/5) vote of the Board, or if less than four-fifths (4/5) of the members are present, a unanimous vote of those members present, that 1) there is a need to take immediate action, and 2) the issue arose subsequent to the agenda being posted.

Any requests to hear a matter not on the agenda or emergency item shall be communicated to the Chair, County Administrator, County Counsel and Clerk as soon as the need becomes known.

**Rule 20. Consent/Regular Calendar Items**

Agenda items on the Consent Calendar are routine in nature, consistent with adopted Board policy, and do not require individual consideration. The Consent Calendar will be enacted by one motion for approval of the recommended actions. There will be no separate discussion of these items prior to the time the Board votes on the motion unless any member of the Board or the public requests removal of a specific item from the Consent Calendar for separate discussion and action. Any Board member may ask the Clerk to record a “no” or “abstention” vote on any Consent Calendar item.

Agenda items on the Regular Calendar require separate discussion and/or action and may include, but are not limited to changes in policy, items that require the Board to consider options and provide direction, requests for new or unbudgeted positions, introductions or adoption of a proposed Ordinance, Public Hearings, and other matters as required by law.

**Rule 21. Public Hearings**

Upon receipt of a request by a Department/Agency or Board member for a public hearing, the County Administrator or Clerk may set the hearing without action of the Board unless the Board is required by law to schedule the hearing. In that event, the matter shall be placed on the Consent Calendar to set the hearing.

Subject to the Chair’s right to maintain order, any person wishing to speak at a public hearing shall be heard. Except for rebuttal allowed an applicant, or the appellant in the case of an appeal, each speaker shall speak only once.

Each speaker’s presentation at a public hearing shall be relevant and to the point, and shall be as brief as possible; visual and other materials may be used as appropriate. The Chair may establish a time limit for presentations. When speakers use or submit to the Board visual or other materials, such materials shall become part of the file and identified and maintained as such. When CDs, DVDs, thumb drives, USB memory sticks, or other portable electronic media (e-media) are submitted to the Board, at least one hard-copy of the information stored on the e-media must be provided to the Clerk. Speakers with lengthy presentations are encouraged to submit them in writing.

The closing of a public hearing signifies the point after which the Board will no longer accept or consider any additional communication on the matter that was the subject of the hearing. As used in this Rule, “communication” includes oral communication; written communication such as documents, letters, and



## **Mono County Board Rules of Procedures**

---

photographs; and any type of electronic communication, including e-mails, e-mail attachments, graphic images, spread sheets, text messages, and social media messages.

Should the Board close a public hearing and continue its deliberations to a subsequent meeting, or announce a tentative decision, by motion or other proceedings, and defer its action on a final decision to a subsequent meeting to allow preparation of appropriate findings and/or conditions of approval, any written or electronic communication received by a Board member or the Clerk after the close of the hearing on the matter that was the subject of the hearing shall be placed in a separate file kept by the Clerk and labeled to indicate it was received after the close of the hearing. Late written and electronic communication shall not be given to Board members, nor should Board members retain copies.

Should County staff determine that communication received after the close of a public hearing should be considered by the Board prior to its rendering a final decision on the matter that was the subject of the hearing, County staff shall recommend to the Board that the hearing be reopened. If the Board concurs, the Board shall reopen the hearing, following appropriate notice, for the limited purpose of receiving testimony and evidence on the new information.

### **VII. PROCEDURE AND VOTING**

#### **Rule 22. Order and Decorum**

The Chair shall preserve order and decorum and shall decide all questions of order and procedure subject to an appeal to the Board. The nature of any appeal shall be briefly stated and the Chair shall have the right to state the reason for his or her decision.

A Board member wishing to speak shall refrain until he or she has been recognized by the Chair. While a Board member is speaking, other Board members shall be respectful and shall not engage in or entertain private discussions.

Consistent with the purpose of the Rules, members are encouraged to use a formal style, including appropriate titles, in addressing the public, staff and each other. All members shall refrain from the use of profanity, emotional outbursts, personal attacks or any speech or conduct which tends to bring the organization into disrepute.

#### **Rule 23. Commitment to Civility**

To assure civility in its public meetings, staff and the public are also encouraged to engage in respectful dialog that supports freedom of speech and values diversity of opinion. To achieve compliance with these Rules, Board members, staff, and the public are encouraged to:

- Create an atmosphere of respect and civility where elected officials, County staff, and the public are free to express their ideas;
- Establish and maintain a cordial and respectful atmosphere during discussions;
- Foster meaningful dialogue free of personal attacks;
- Listen with an open mind to all information, including dissenting points of view, regarding issues presented to the Board;

- Recognize it is sometimes difficult to speak at Board meetings, and out of respect for each person's feelings, allow them to have their say without comment, including booing, whistling or clapping;
- Adhere to speaking time limit.

**Rule 24. Use of Electronic devices and documents**

The use of electronic documents, via iPads or other electronic means, is encouraged as a means of reducing the production and distribution of paper documents, and thereby decreasing costs.

Any member of the public may view the same electronic documents on line at:

[http://monocounty.ca.gov/meetings\\_sub/bos](http://monocounty.ca.gov/meetings_sub/bos), or may view the documents in paper form in the Clerk of the Board's Office.

The Board shall refrain from emailing, texting, using social media, or otherwise engaging in electronic communications in the Board Chambers on matters that are listed on the Board agenda.

**Rule 25. Motions – General**

Any motion for action shall require a second before being acknowledged by the Chair. The Clerk shall enter into the minutes the motion and the names of the moving and seconding members. After a motion is stated by the Chair, it shall be open for debate but may be withdrawn by the maker at any time before a decision is made or an amendment adopted. A motion may be amended with the consent of the moving and seconding members at any time before a decision is made or an amendment adopted unless another motion is pending. The Clerk shall enter into the minutes the vote of each member on each motion.

**Rule 26. Voting**

It shall take at least three affirmative votes of the Board to pass any motion (Govt. Code §25005), except where supermajority four-fifths (4/5) votes or unanimous votes are required by law. Appendix B contains a list of common items that require a four-fifths (4/5) vote. Appendix B may be up-dated without amending these Rules. An abstention shall count as neither an "aye" nor a "no" vote.

A supervisor who is absent from all or a part of: (1) a public hearing, (2) an item that requires findings, or (3) an item that is quasi-judicial in nature, may subsequently vote on the matter if the supervisor has reviewed all evidence received during his/her absence, listened to the Clerk's recording or read a true and complete transcript of the proceedings, and so states on the record.

**Rule 27. Roll Call Votes**

The roll need not be called in voting upon a motion except where specifically required by law or requested by a Board member or the Chair. Each roll call vote shall be made in an order determined by the Clerk or directed by the Chair but generally shall first include: the maker of the motion; the member who seconded the motion; the balance of the members present, with the Chair called last, unless the Chair made, or seconded, the motion.

**Rule 28. Conflicts of Interest**

Any Board member with a disqualifying conflict of interest must, in compliance with the Political Reform Act:

## **Mono County Board Rules of Procedures**

---

- a) Publically state the nature of the conflict in sufficient detail to be understood by the public;
- b) Recuse himself/herself from discussing and voting on item; and
- c) Leave the room until after the discussion, vote, and other disposition of the matter is concluded, unless the matter has been placed on the Consent Calendar.

The member may be allowed to address the Board as a member of the public. Disclosure of a conflict shall be noted in the official Board minutes. The member must also comply with all other applicable conflicts of interest laws.

Members may not have a financial interest in a contract approved or considered by the Board. In these cases disclosure and recusal does not remove the conflict and such a contract is considered void (Government Code §1090). The Board member is encouraged to discuss possible conflicts with County Counsel prior to the meeting.

### **Rule 29. Motion to Rescind**

A motion to rescind any action or motion shall require four-fifths (4/5) vote unless notice has been given at the previous meeting, either verbally or in writing. If notice has been given, the motion requires only a majority vote of all the members of the Board. A motion to rescind is not in order if action has been taken which cannot be changed.

### **Rule 30. Motion to Reconsider**

Any Board member who votes in the majority on a question, as well as any Board member who was absent, is eligible to make a motion to reconsider. A motion to reconsider shall be in order during the meeting at which the action to be reconsidered took place provided members of the public in attendance during the original action are still present in the Board chamber. In all other cases, motions for reconsideration must be placed on a future agenda for action.

A motion to reconsider shall require a majority vote. A motion to reconsider, if lost, shall not be renewed nor shall any subject be reconsidered a second time within twelve (12) months except by a four-fifths (4/5) vote of the Board. A motion to reconsider is not in order if action has been taken which cannot be changed.

### **Rule 31. Substitute Motion**

A substitute motion is an amendment where an entire resolution or section, or one or more paragraphs is struck out and another is inserted in its place. The motion to substitute, if adopted by majority vote, does away entirely with the original motion. The vote shall then be taken on the motion that was substituted. A substitute motion is appropriate if amendments become involved or a paragraph requires considerable changes. A substitute motion may not be made when an amendment is pending.

### **Rule 32. Ordinances**

Ordinances (other than zoning ordinances) are introduced at one meeting (first reading), then generally placed on the agenda for adoption at a subsequent meeting.

- The first reading will become the primary meeting at which: (1) the title of the ordinance will be read; (2) the Board will typically consider a motion to waive the reading of the text of the ordinance and to

introduce the ordinance by title only; (3) members of the public shall have an opportunity to address the ordinance; (4) the ordinance shall be introduced by a motion and majority vote of the Board.

- At the second reading: (1) the ordinance may be placed on the Consent Calendar for adoption; (2) if pulled from the Consent Calendar for separate action, the title of the ordinance may be read; (3) a motion to adopt the ordinance may be made; (4) a majority vote by roll call will adopt the ordinance.
- Pursuant to Government Code §25123, ordinances shall generally become effective 30 days from the date of final passage.

Zoning ordinances are publicly noticed and may be adopted by majority roll call at one hearing. Other ordinance hearing procedures may be used as required by law.

**Rule 33. Planning Matters – Request for Continuance**

Any Board member may, at his or her sole discretion, continue a planning matter within his/her District from one agenda to another regular meeting of the Board.

**Rule 34. Planning Matters – Original Jurisdiction**

Any member may request the Board to exercise original jurisdiction over a use permit or other planning application, as authorized under the County Code, except in cases where state law requires a recommendation of the Planning Commission prior to action by the Board on the matter. A request to exercise original jurisdiction shall be filed in writing with the Clerk, or made orally at a Board meeting, prior to any decision by a lower level decision maker approving or denying the subject application. A request to exercise original jurisdiction need not state the reasons for the request but shall be brought as a noticed agenda item to the full Board for majority approval.

**VIII. DUTIES OF COUNTY STAFF DURING BOARD MEETINGS**

**Rule 35. County Administrator**

The County Administrator shall be present during Board meetings and shall provide such information as necessary to assist the Board members in their deliberation and decision making. The County Administrator may delegate this responsibility to the County Finance Manager or County Counsel should extraordinary circumstances prevent the discharge of this responsibility.

**Rule 36. County Counsel**

County Counsel shall be present during Board meetings, and shall serve as advisor to the Board on appropriate rules to comply with legal requirements. All questions of law shall be referred to County Counsel for his or her opinion. County Counsel may delegate this responsibility to the Assistant County Counsel or a Deputy County Counsel.

**Rule 37. Clerk of the Board**

The Clerk or Deputy Clerk shall be present during all meetings for the purpose of taking and maintaining the minutes of the meeting; presenting and receiving correspondence, records, documents, claims, reports, or petitions; preserving all records; marking or attesting all resolutions and ordinances; imparting information on Board documents of public record; and otherwise fulfilling all duties imposed by law or required by the Board.

## **Mono County Board Rules of Procedures**

---

The Clerk shall record all regular meetings of the Board by audio or visual means or both. Regular meetings may also be broadcast or webcast.

### **Rule 38. Sheriff**

The Sheriff, or a representative of the Sheriff's Office, shall at the discretion of the Chair or a majority of Board members, be in attendance at the meeting of the Board, for the purpose of maintaining order and upholding the law.

### **Rule 39. Department and Agency Directors**

Department and Agency Directors, or a designee, having any matter on the agenda for consideration by the Board, whether consent or regular, shall be available for the purpose of providing information to the Board and shall also attend any Board meeting when requested to do so by a Board member or the County Administrator. Department and Agency Directors may be present in person or by tele-communication as the items warrants. Given Mono County's seasons and efforts to contain costs, Department and Agency Heads are asked to keep these factors in mind when scheduling meeting attendance.

## **IX. COMMITTEES**

### **Rule 40. Board Committees/Assignments and Reporting Requirements**

The Clerk shall maintain a list of Board Committees and Assignments. Annually, the incoming Chair shall review the list of Committees and Assignments and shall determine which members to appoint for the upcoming year. The list of appointments shall be adopted by the Board at their first meeting in January.

All members who are assigned to special projects, committees, and separate boards or commissions shall provide regular reports to the full Board regarding their activity in connection with the special projects, committees, and separate boards or commissions.(Government Code §53234, et. seq.).

Committee members shall call board committee meetings as needed provided they are held in conformance with the law. The County Administrator's Office and County Counsel shall serve as support staff to all Board committees. Other department heads and/or staff may also support as requested by the committee.

### **Rule 41. Standing Committees**

Standing committees are those which have continuing jurisdiction over a particular subject matter or whose meeting schedule is fixed by resolution or action of the Board. Even if comprised of less than a quorum of the Board, a standing committee is subject to the Brown Act.

The Chair shall appoint members to each standing committee. Generally, appointments shall occur at the Board's first regular meeting in January. All standing committees shall be appointed for the calendar year, and the members shall continue as committee members until their successors have been appointed.

### **Rule 42. Ad-Hoc Committees**

Ad-Hoc committees are not subject to the Brown Act. They may be formed by the Chair or Board action, shall be solely composed of members of the Board, less than a quorum of the Board, shall serve a limited or single purpose, for a limited time, and shall be dissolved once the specific task assigned is completed.

Ad-Hoc Committees are encouraged to conclude their business at the end of each calendar year. The Clerk will maintain a current index of Ad-Hoc Committees and their purpose.

**X. OTHER**

**Rule 43. Board Member Referrals to Staff**

Board member referrals, excluding constituent work, that are anticipated to involve significant staff time or other resource commitment and/or are a departure from established county or departmental policy require Board approval prior to starting work. Board members are encouraged to discuss referrals which may require significant resources with the Chair and CAO.

Board approval shall be obtained through majority action of the Board, on an agenda item in which the scope and resource needs of the referral are identified.

**Rule 44. Action Summaries and Recordings of Meetings**

The Clerk shall prepare and distribute Action Summaries (“minutes”) of Board meetings. The minutes shall consist of the brief statement of each item posted on the agenda and supplemental agenda plus all motions, resolutions and ordinance numbers related thereto, all votes recorded thereon, and the final action taken by the Board. The minutes shall be made available internally and to the public and shall be placed on the Internet.

**XI. The Clerk shall maintain the official audio record of each Board meeting for a period of at least 2 years and will make these tapes available for listening by the public at no charge. PARTICIPATION OF THE PUBLIC**

**Rule 45. Public Comment / Time Limits**

Members of the public have the right to address the Board on any item within the subject matter jurisdiction of the Board (Government Code §54954.3). Members of the public shall direct their comments to the Chair who may, at his or her discretion, request a response from staff. Time limitations are at the discretion of the Chair, and may be reduced or extended.

Public comments on items on the agenda will be called prior to the Board taking action on the item.

Under the Public Comments portion of the meeting, members of the public will be allowed to address the Board regarding any item **not on the agenda**. No action may be taken on items not on the agenda unless authorized by law.

**Rule 46. Orderly Conduct**

The Chair may determine when orderly conduct of a meeting is not feasible owing to disruptive behavior by persons in attendance. The Chair may request that person(s) disrupting the meeting leave the chambers/meeting room. If order cannot be restored, the Chair may order the chambers/meeting room cleared and continue in session. Members of the news media, except those participating in the disturbance, shall be allowed to remain. The Chair may re-admit any person(s) provided their re-admission will not disrupt the continued orderly conduct of business. The Chair may also call a recess and reconvene when order has been restored.

## **Mono County Board Rules of Procedures**

---

### **Rule 47. Security and Prohibition of Banners/Signs or other Hazardous Objects**

The Board has the power to implement security measures in the chambers/meeting room. Signs, posters, banners or other hazardous objects which could impair the safety of individuals in the event of an emergency are prohibited in the chambers/meeting room. Any large object/container that may be deemed a hazardous object which could impair the safety of individuals in the event of an emergency may be prohibited in the chambers/meeting room.

**XII. Appendix A. Order of Agenda**

Generally, business at Regular meetings shall be transacted in the following order. Business may be reordered by the Chair or by a majority of members. Without amending these Rules, the Board may modify or amend the Agenda Order.

- I. Call to Order ( 9:00 a.m.)
- II. Pledge of Allegiance
- III. Public Comment on matters not on the agenda, but within the subject matter jurisdiction of the Board
- IV. Approval of Minutes
- V. Presentations
- VI. Board Member Reports on assigned Boards, Councils, Commissions or other meetings attended
- VII. County Administrative Officer Report
- VIII. Department Reports/Emerging Issues
- IX. Consent Calendar
- X. Correspondence Received
- XI. Regular Morning Calendar
- XII. Public Comment on Closed Session Items
- XIII. Closed Session
- XIV. Reconvene and Report from Closed Session (2:00 p.m. unless adjusted by the Chair as needed)
- XV. Public Comment on matters not on the agenda, but within the subject matter jurisdiction of the Board
- XVI. Regular Afternoon Calendar

Adjournment – Meeting Adjourned in the Memory of/Moment of Silence/Reading of Names, City



**Mono County Board Rules of Procedures**

**XIII. APPENDIX B. 4/5ths and Unanimous Vote Requirements**

Subject	Vote	Code	Description
Off Agenda Action	Unanimous	Gov Code §54954.2(b)(2)	To consider an item not on the Agenda, the Board must make findings that the need to take action arose after the Agenda was posted. The vote requires at least four votes of the Board if two-thirds of the members are present. If less than two-thirds are present, it requires a unanimous vote.
Airport	4/5	Gov Code §26021	Property acquisition for airport purchases by purchase, condemnation or lease; resolution for County aid.
Airport	4/5	Gov Code §26026	Contribute money to the United States for the acquisition or improvement by the United States or any of its authorized agencies of airports in the county.
Bonds		Gov. Code §§26880, 26885, 26946, 29917, 53595.20, 53345.8; Sts. & Hwys Code §§9132, 5227, 10355, 9534.5; Ed. Code §15145; Pub. Util. Code §§99100, 99102, 99118, 99119	There are many special voting requirements and other processes required for bonds. Please check with counsel.
Bridges	4/5	Pub. Contract §20405(c)	Modify the plans, specifications and working details of bridge construction contracts.
Budget	4/5	Gov Code §29088	Changes to proposed budget after budget hearing but prior to final budget
Budget	4/5	Gov Code §29125	The following transfers and revisions to the adopted appropriations require a 4/5 vote: (1) between funds; or (2) transfers from appropriation for contingencies.
Budget	4/5	Gov Code §29127	Adopt resolution necessary to appropriate and expend funds necessary to meet specific emergencies.

**Mono County Board Rules of Procedures**

Budget	4/5	Gov Code §29130	Make available for appropriation any of the following fund balances:  a) Restricted, committed, assigned, and unassigned fund balances, excluding the general reserves and nonspendable fund balance;  b) Amounts that are either in excess of anticipated amounts or not specifically set forth in the budget derived from any actual or anticipated increases in financing sources.
Collections	4/5	Gov Code §26220(a) and (b)	a) Assign for the purpose of collection any or all delinquent bills, claims and accounts, and any or all money judgments taken in the name of the County. b) Assign for the purpose of collection any or all delinquent or unsecured taxes.
Condemnation/Eminent Domain	4/5	Code of Civ. Pro §1245.240	Adopt a resolution of necessity prior to commencing an eminent domain proceeding.
Contracts	4/5	Pub. Contract Code §20128	Modify terms of a construction contract.
Contracts	4/5	Pub. Contract Code § 20135	Alter or change in any manner the plans and specifications previously adopted by the Board for the erection, alteration, construction, or repair of any public building or structure, where such alteration or change increases cost.
Contracts	4/5	Pub. Contract Code §20136	Adopt an order to alter or change a contract that is for the erection, construction, alteration or repair of any public building or other structure.
Contracts	4/5	Pub. Contract Code § 20137	Contracts for the erection, construction, alteration, or repair of any public building or other structure: the Board may authorize a change if it does not exceed 10% of the original contract price
Contracts	4/5	Pub. Contract Code § 20150.10	Adopt a resolution declaring that a project can be performed more economically by county personnel, or that in the Board’s opinion a contract to perform the project can be negotiated with the original bidders at a lower price than that in any of the bids, or the materials or supplies furnished at a lower price in the open market.
Contracts	4/5	Pub. Contract Code § 22038(a)(2)	After rejection of bids, adopt a resolution that declares that a project can be performed more economically by the employees of the agency.
Contracts	4/5	Pub. Contract Code §22050(a)(1)	In the case of an emergency, repair or replace a public facility, take any directly related and immediate action

## Mono County Board Rules of Procedures

			required by that emergency, and procure the necessary equipment, services and supplies for those purposes, without giving notice for bids to let contracts. (See also Pub. Contract Code §22035.)
Contracts	4/5	Pub. Contract Code §22050(b)(1)	Adopt a resolution or ordinance that delegates to the appropriate county administrative officer, chief engineer or other nonelected agency officer, the authority to order any action pursuant to the emergency powers described in (a)(1) above.
Contracts	4/5	Pub. Contract Code §3400(c)(4)	Use of specific brand/trade name (without “or equal”) in the invitation of bids or requests for proposals in order to respond to an emergency declared by a local agency by a four-fifths vote.
Counsel	4/5	Gov. Code § 25203	Employ counsel to assist the district attorney, county counsel or other counsel for the county or public entity for which the Board is the governing body.
Flood Control, Maintenance and Sanitation District	4/5	Gov. Code § 23014	Adopt a resolution appropriating any of its available moneys to a revolving fund (not to exceed \$500,000) to be used by any county sanitation district, county flood control district, or county district maintenance district located wholly within the county for certain purposes.
Legislation	4/5	Gov. Code §25123(d); Elec. Code §9141(a)(4)	Adopt ordinances that are for the immediate preservation of the public peace, health or safety, which contain a declaration of the facts constituting the urgency, in which case the ordinance shall take effect immediately.
Parks	Unanimous	Gov. Code §25583	Adopt a resolution of intention to abandon a park or a portion of a park and fix a time when it will meet to take final action.
Parks	4/5	Gov. Code §25553	Find that the enlargement or improvement of the public park, beach, golf course or recreation ground is of general county interest or that the cost of maintenance is increased by reason of use by residents of the county outside of the city, such that the Board may determine to extend aid to city parks.
Planning	4/5	Gov. Code §65858	Adopt as an urgency measure, an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal. Any extension of time on the interim ordinance also requires a 4/5 vote.

**Mono County Board Rules of Procedures**

Planning	4/5	Pub. Util. Code §§ 21676, 21676.5	Overrule an airport land use commission's determination.
Property	Unanimous	Gov. Code §25363	Cash sale or lease of any property not required for public use at a noticed public auction (4/5ths vote); sale or lease at an unadvertised, private sale can be authorized by simple majority, but only after the Board unanimously finds that the value of the property does not exceed \$500, monthly rental value is less than \$75 or it is a product of a County farm.
Property	Unanimous	Gov. Code §25550 & §25550.5	Conveyance of county property to city for public park purposes
Property	4/5	Gov. Code §25365(a)	Convey to another governmental agency within the county any real or personal property
Property	4/5	Gov. Code §25365(b)	Exchange real property with any person, firm or corporation for the purpose of removing defects in the title or where the real property is not required for county use and the county to be acquired is required for county use.
Property	4/5	Gov. Code §25515.2(c)	Action to approve any sale, lease, lease with option to purchase, development or contract agreement for public property after a request for proposals.
Property	4/5	Gov. Code §25536(a)	Enter leases, concession or managerial contracts involving leasing or subleasing county-owned, leased or managed property devoted to or held for certain purposes
Property	4/5	Gov. Code §25536(c)	Sell or lease county-owned property without complying with Article 8 "Sale or Lease of Real Property" if the county repurchase or leases back the property as part of the same transaction. Pledge specific revenues as security for the payment of obligations incurred in the repurchase or leaseback of the property.
Property	4/5	Gov. Code §25536.5	Approve an agreement to amend a lease, sublease, concession or managerial contract entered to permit a permanent improvement or alteration of property at the expense of the lessee or concessionaire and to permit a credit on rentals or other reimbursement.
Property	4/5	Gov. Code §25526	Adopt a resolution declaring intent to sell or lease property.
Property	4/5	Gov. Code §53867	Determines that property cannot be sold for a sum at

## Mono County Board Rules of Procedures

			least equal to the total of the amount paid, all accrued penalties and delinquencies, and necessary expenses incurred, the local agency may sell the property or lien for less than such total but not less than the fair market value of the property or lien.
Roads	Unanimous	Sts. & Hwy Code §1026(c)	County aid to road districts: order the expense of material for highway construction to be paid out of the county general fund.
Special Assessment Districts	4/5	Sts. & Hy. Code §§ 2808.5, 2808.6, 2808.7	There are several statutory special vote requirements related to special assessment districts. Please consult with County Counsel.
Special Purpose District	Unanimous	Gov. Code § 26909, subd. (b)	Approve a unanimous request made by the governing board of a special district to replace an annual audit with another specified audit.
Streets and Highway	4/5	Sts. & Hwy. Code §942	Let county equipment used in the maintenance and construction of county roads, when such equipment is not in use upon the roads under the jurisdiction of the board, and may charge for the use thereof a rental, and arrange the basis of compensation, in keeping with the general conditions prevailing in the county in which the transaction is made.
Streets and Highway	4/5	Sts. & Hwy. Code § 969.5	Adopt a resolution that determines that the general county interest demands the improvement or repair of a privately owned road.
Streets and Highway	4/5	Sts. & Hwy. Code § 1070	Determine that the public convenience and necessity demand the acquisition or construction of a new county highway or improvement, repair or maintenance of any existing county highway, and the expense of such new highway or the expense of improving, repairing, or maintaining such existing highway is too great to pay out of the road fund of the district (such that the Board may adopt a resolution to make such acquisition or do such work and charge the expense to the county general fund, the road fund of the county, or the district fund of any district benefited).
Streets and Highway	4/5	Sts. & Hwy. Code § 1627	Adopt a resolution that establishes a “county highway right of way acquisition revolving fund” for acquiring rights of way for county highway purposes through purchase or condemnation.

**Mono County Board Rules of Procedures**

Streets and Highway	4/5	Sts. & Hwy. Code §§ 1680, 1686	Adopt a resolution that determines that certain activities are of general county interest and that county aid may be extended to cities for city streets.
Streets and Highway	4/5	Sts. & Hwy. Code § 1700	Adopt a resolution that declares any highway lying in whole or in part within a city to be a county highway for one or more of the following purposes: acquisition of rights-of-way, construction, maintenance, improvement, or repair.
Tax	4/5	Gov. Code § 53724	Approve an ordinance or resolution that proposes a tax that is subject to approval by the voters pursuant to Government Code section 53722
Tax	4/5	Rev. & Tax. Code § 7285	Approve ordinance proposing a transactions and use tax for general purposes.
Tax	4/5	Rev. & Tax. Code § 7285.5	Adopt ordinance regarding a transactions and use tax for specific purposes.

## Mono County Board Rules of Procedures

---

### XIV. APPENDIX C. Request to place an Item on the Board's Agenda by the public or non-County entities

- a) The public or any non county entity (i.e. other governments, businesses, non-profits groups or other interest groups) are requested to contact the Clerk of the Board of Supervisors (760-932-5533 or 760-932-5538) for the date of the next available agenda. This information online at: <http://monocounty.ca.gov/bos>; click on **Meetings** link.
- b) A non-county individual or group seeking placement of an item on the Board of Supervisor's Agenda must have one of the Supervisors sponsor the item, and notify the Clerk of the Board with the name of Board Member sponsor.
- c) The following information is required via email to the Clerk of the Board of Supervisors before the item will be added to the agenda:
  - *A brief description of the item to be discussed.*
  - *Is there a requested Board action, or is this item informational?*
  - *Is there a fiscal impact to the County?*
  - *Name of the person(s) who will be appearing before the Board to make the presentation.*
  - *The amount of time requested, including discussion and questions from the Board.*
  - *Preferred time of presentation, morning or afternoon.*  
*Morning is between 9:30-12:00 p.m.; afternoon is after 2:00 p.m.*

**NOTE:** *An afternoon time may not be possible if the meeting will be finished before Noon.*

  - *If the request is coming from an organization, please provide via email a cover memo on the organization's letterhead addressed to the Mono County Board of Supervisors describing in detail the request, expected Board action, and fiscal impact.*
  - *If handouts are to be provided or additional information at the Board meeting, you must provide this information via email to the Clerk of the Board of Supervisors. At least 20 copies for public distribution*
  - *If a PowerPoint presentation will be presented, please email it prior to the agenda deadline so it can be included in the Board's packet.*
- d) Upon request, the Clerk of the Board will provide a copy of a sample cover memo.

RULES AND PROCEDURES FOR MEETINGS  
OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF MONO

February 6, 1978

THESE RULES AND PROCEDURES ARE MEANT ONLY AS GUIDELINES FOR  
AUTHORITIES AND RESPONSIBILITIES OF THE BOARD MEMBERS IN THE  
CONDUCT OF BOARD MEETINGS.

A CHAIRMAN IS CHOSEN ANNUALLY FROM THE MEMBERSHIP OF THE BOARD  
TO CONDUCT ALL MEETINGS, APPOINT COMMITTEES, CALL SPECIAL MEET-  
INGS, ADJOURN REGULAR MEETINGS AND MAKE CERTAIN DECISIONS ON  
BEHALF OF THE BOARD. TIME AND LOCATION OF BOARD MEETINGS SHALL  
BE THE FIRST FOUR TUESDAYS OF EACH MONTH, PER MONO COUNTY OR-  
DINANCE NO. 78-453-B.

DUTIES AND AUTHORITIES OF THE CHAIRMAN:

IN ADDITION TO CONDUCTING MEETINGS, THE CHAIRMAN SHALL VOTE TO  
BREAK A TIE OR DEADLOCK. WHEN THERE ARE ONLY FOUR MEMBERS PRESENT  
AT A MEETING, THE CHAIRMAN SHALL BE REQUIRED TO VOTE WHEN THERE  
IS A DISSENTING VOTE. IF THE CHAIRMAN'S VOTE RESULTS IN A TIE  
VOTE, THE ISSUE MAY BE BROUGHT UP AT THE NEXT MEETING WITH THE  
FULL BOARD PRESENT. WHEN THERE ARE ONLY THREE MEMBERS PRESENT AT  
A MEETING, THE CHAIRMAN SHALL BE REQUIRED TO VOTE ON EVERY ACTION.  
THE VOTE MUST REPRESENT A QUORUM OF THE FULL BOARD. THE CHAIR-  
MAN SHALL HAVE THE RIGHT TO ENTER INTO ALL DISCUSSIONS PRIOR TO

-1.-

EXHIBIT "F"



CALLING FOR THE VOTE. WHEN IT IS REQUIRED THAT A CHAIRMAN SHALL VOTE, HE CANNOT ABSTAIN UNLESS THERE IS A DEFINITE CONFLICT OF INTEREST SHOWN. FOR THE CHAIRMAN TO ACT ON HIS OWN, THE GAVEL SHALL BE PASSED TO THE VICE-CHAIRMAN PRIOR TO SUCH ACT.

DEADLOCK:

A DEADLOCK IS (1.) WHEN A FULL BOARD IS PRESENT AND THE VOTE ON AN ISSUE IS TIED 2-2; (2.) WHEN A FULL BOARD IS PRESENT AND THERE IS ONE DISSENTING VOTE ON AN ISSUE REQUIRING A 4/5 VOTE.

POLLING THE BOARD:

THE CHAIRMAN, OR ANY MEMBER OF THE BOARD, CAN REQUEST THAT THE BOARD BE POLLED ONLY WHEN IT IS NOT CLEAR HOW THE MEMBERS VOTED ON A VOICE VOTE. WHEN A REQUEST FOR POLLING THE BOARD IS MADE, THE CLERK SHALL CALL THE ROLL OF THE BOARD MEMBERS, EXCLUDING THE CHAIRMAN. IF THE POLL RESULTS IN A DEADLOCK VOTE, THE CHAIRMAN SHALL ANNOUNCE HIS VOTE VERBALLY.

WHEN 4/5 VOTE IS REQUIRED:

A 4/5 VOTE IS REQUIRED WHEN:

- 1.) A BOARD POLICY IS AMENDED OR RESCINDED.
- 2.) AN ORDINANCE IS AMENDED OR RESCINDED, EXCEPT THOSE ORDINANCES WHICH ARE ENABLING ORDINANCES FOR STATE LAW. (OCCUPANCY TAX AND BOARD SALARY.)
- 3.) A PREVIOUS ACTION ADOPTED BY THREE OR MORE AFFIRMATIVE

VOTES IS AMENDED OR RESCINDED.

4.) MONIES ARE WITHDRAWN FROM THE CONTINGENCY FUND.

5.) THERE ARE CHANGES MADE IN CLASSIFICATION OF EMPLOYEES BETWEEN SEPTEMBER 1 AND JUNE 21.

6.) A BOARD MEETING IS CANCELLED (SUCH CANCELLATION REQUIRES PUBLISHED NOTICE ONE WEEK PRIOR TO THE MEETING DATE).

7.) A RESOLUTION IS AMENDED.

GENERAL PROCEDURES:

EXECUTIVE SESSIONS ARE TO BE HELD AT THE END OF MEETINGS, IF POSSIBLE.

THE CHAIRMAN MAY NOT SIGN ANY DOCUMENT OR CONTRACT WITHOUT THE MAJORITY APPROVAL OF THE BOARD.

THE FUNCTION OF EACH BOARD MEMBER IS TO ACTIVELY PARTICIPATE IN THE OBLIGATIONS OF THE BOARD. THOSE OBLIGATIONS INCLUDE THE INTRA-COUNTY COMMITTEE ASSIGNMENTS AND THE INTER-COUNTY AND STAT ASSIGNMENTS REQUIRED TO MEET THE TOTAL NEEDS OF THE COUNTY. THE BOARD IS PRESENTLY COMMITTED TO BECOME PERSONALLY INVOLVED IN THE GENERAL ADMINISTRATION OF THE COUNTY AND THIS WILL BE DONE BY THE COMMITTEE SYSTEM; COMMITTEE MEMBERSHIPS MUST BE SERVED. THE INDIVIDUAL ORGANIZATION AND SPECIAL DISTRICT NEEDS USUALLY REQUIRE SUPERVISORIAL ATTENTION AND THE BEST INTERESTS OF THE

COUNTY REQUIRE THAT THESE NEEDS BE ADDRESSED, AT LEAST IN A GENERAL WAY. THE INDIVIDUAL PARTICIPATION OF EACH BOARD MEMBER WILL BE PERIODICALLY REVIEWED BY THE ENTIRE BOARD TO INSURE THE EQUALITY OF THE PARTICIPATION, AND THE ENTIRE BOARD WILL PERIODICALLY REVIEW THE RULES AND PROCEDURES FOR BOARD MEETINGS.

Moved by Supervisor Green, seconded by Supervisor Sharp, and unanimously carried to amend the Board of Supervisors' Rules and Procedures to include the following:  
"In the adoption of any ordinance, following the reading and/or waiver thereof, the ordinance will be scheduled for a public hearing and noticed with appropriate action following."

4-4-78



1  
2  
3  
4                   **RESOLUTION NO. \_\_\_\_\_ R00-34 \_\_\_\_\_**  
5                   **BOARD OF SUPERVISORS, COUNTY OF MONO**

6                   **A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS**  
7                   **ESTABLISHING THE BOARD'S POLICY WITH RESPECT TO**  
8                   **CONSIDERATION OF RESOLUTIONS AND OTHER FORMS OF**  
9                   **BOARD ACTION REQUESTED BY MEMBERS OF THE PUBLIC OR BY OTHER**  
10                   **EXTERNAL AGENCIES OR ORGANIZATIONS**

11                   **WHEREAS**, from time to time, members of the public or other external (outside the County  
12 government) agencies or organizations request that the Board of Supervisors adopt a proposed  
13 resolution or take some other form of action; and

14                   **WHEREAS**, before taking action on any such request, the Board requires a reasonable  
15 period of time for itself, its staff, and interested members of the public to review, evaluate, and  
16 *comment on the request*; and

17                   **WHEREAS**, the Board wishes to establish a policy that will ensure adequate opportunity for  
18 such review, evaluation, and comments.

19                   **NOW, THEREFORE, BE IT RESOLVED** by the Mono County Board of Supervisors as  
20 follows:

21                   **SECTION ONE:** Except as otherwise provided herein, the Board shall not adopt any  
22 resolution or take any other form of action requested by a member of the public or by other external  
23 (outside the County government) agencies or organizations unless the Board is satisfied that all of the  
24 foregoing criteria are met:

- 25                   • County Counsel has had an adequate opportunity prior to the meeting at which the  
26 requested action comes before the Board to thoroughly review and consider the  
27 request for legal adequacy and to analyze any legal issues raised by the request.
- 28                   • Other relevant County staff (as determined by the Board) have had an adequate  
opportunity prior to the meeting at which the requested action comes before the Board  
to thoroughly review and consider the request and to analyze any pertinent non-legal  
issues raised by the request.
- *Interested members of the public have had reasonable notice of the requested action*  
and an adequate opportunity to present any comments they may have regarding the  
request to the Board. Public notice of agenda items provided pursuant to the Brown  
Act shall be deemed reasonable notice unless the Board expressly declares otherwise.
- The Board has had an adequate opportunity prior to the meeting at which the  
requested action comes before the Board to thoroughly review and consider the  
request and to consider any analysis of the request by County Counsel or other  
County staff and any public comments.





OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: Clerk of the Board**

**TIME REQUIRED** 15 minutes (5 minute presentation; 10 minute discussion) **PERSONS APPEARING BEFORE THE BOARD** Lynda Roberts

**SUBJECT** Board of Supervisors' Meetings--  
Change in Location of Third Regular  
Monthly Meeting

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Location of the Board of Supervisors' third regular meeting of each month.

### RECOMMENDED ACTION:

Review and discuss 1) changing the location of the Board's third regular meeting each month from Bridgeport to the Town of Mammoth Lakes; and 2) making this change for an indefinite period of time rather than annually. Potentially adopt Resolution R14-... that will change the location of the third regular board meeting of each month for a 12-month period; or potentially adopt Resolution R14-... that will change the location of the third regular board meeting of each month for an indefinite period of time. Provide direction to staff as desired.

### FISCAL IMPACT:

Approximately \$1,200 annually.

**CONTACT NAME:** Lynda Roberts

**PHONE/EMAIL:** 760-932-5538 / lroberts@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

[Change of location for Third Regular Meeting](#)

- [Minutes of Jan 8, 2013](#)
- [Proposed Resolution](#)
- [Notice of Third Meeting Location Change](#)
- [Proposed Resolution v 2](#)
- [Notice of Third Meeting Location Change v. 2](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
12/23/2013 7:07 AM	County Administrative Office	Yes
12/30/2013 8:53 AM	County Counsel	Yes
12/30/2013 3:08 PM	Finance	Yes



Larry Johnston □ District One    Fred Stump □ District Two    Tim Alpers □ District Three  
Tim Fesko □ District Four    Byng Hunt □ District Five

---

## **BOARD OF SUPERVISORS COUNTY OF MONO**

---

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517

(760) 932-5538 • FAX (760) 932-5531

*Lynda Roberts, Clerk of the Board*

To:     Honorable Board of Supervisors  
From:   Lynda Roberts, Clerk of the Board of Supervisors  
Date:    January 7, 2014

### Subject

Location of the Board of Supervisors' Third Regular Meeting of Each Month

### Recommendation

Review and discuss 1) changing the location of the Board's third regular meeting each month from Bridgeport to the Town of Mammoth Lakes; and 2) making this change for an indefinite period of time rather than annually. Potentially adopt Resolution R14-... that will change the location of the third regular board meeting of each month for a 12-month period; or potentially adopt Resolution R14-... that will change the location of the third regular board meeting of each month for an indefinite period of time. Provide direction to staff as desired.

### Background

This issue was initially discussed by the Board of Supervisors at their regular meeting of January 5, 2010. At that time, the Board directed staff to implement a pilot program and hold the third daytime meeting of each month in Mammoth Lakes. This practice started with the meeting of January 19, 2010, and continued through April 20, 2010. At the regular meeting of April 6, 2010, a majority of the Supervisors voted to discontinue holding the third daytime meeting each month in Mammoth Lakes after the April 20, 2010, meeting, and reestablish all regular meetings the first three Tuesdays of each month in Bridgeport.

The Board of Supervisors discussed this issue again at their regular meeting of January 18, 2011, and a majority of the Supervisors voted to hold the third regular meeting in Mammoth Lakes for a one-year trial period. The Board adopted Resolution R11-04 on February 8, 2011, temporarily changing the location of the third regular board meeting of each month.

Since the one-year trial period approved by Resolution R11-04 was due to end with the February 21, 2012, meeting, this item was again considered at the regular meeting of December 13, 2011. After discussion, a majority of the Supervisors voted to direct staff



to prepare a resolution to continue for another year the Board's third regular meeting each month in Mammoth Lakes. At the regular meeting held on January 3, 2012, a majority of the Supervisors adopted Resolution R12-01 temporarily changing the location of the third regular board meeting of each month. This change was implemented for a twelve-month period commencing in March of 2012 and ending in February of 2013.

On January 8, 2013, the Board of Supervisors discussed this issue and decided to continue reviewing the change in location annually. The Board also adopted Resolution R13-03 changing the location of the third regular board meeting of each month for a 12-month period through the meeting of February 18, 2014.

#### Discussion

The Board will consider whether or not to continue holding the third regular meeting of each month in Mammoth Lakes commencing in March of 2014, and whether or not to make this change for an indefinite period of time or continue to review the change annually.

#### Fiscal Impact

Approximately \$1,200 annually for the time required monthly to set up and dismantle the Mammoth Lakes Board of Supervisors meeting room.

- The information presented today has been distributed to the RPACs.
- Invited the Supervisors to contact him for more information.

Board Comments

- Supervisor Johnston: LTC will be holding discussions about this issue. They will also discuss the shortfall in funding sources over the next 10 years and potential new funding sources.
- Supervisor Hunt: Expressed concern about the future of state funding.

11b) Report on 2013 Airport Capital Improvement Plans (ACIPs) for Lee Vining Airport and Bryant Field Airport (Garrett Higerd) - Annual Airport Capital Improvement Plans prioritize projects for FAA funding at Mono County airports.

**M13-07** **Action:** Approve submittal of 2013 ACIPs for Lee Vining Airport and Bryant Field.

**Johnston moved; Fesko seconded**

**Vote: 5 Yes; 0 No**

Garrett Higerd, Public Works, reviewed the following:

- Reconstruction of Lee Vining and Bryant Field Airports.
- ACIP is the annual plan developed with input from the FAA and approved by FAA; this plan is the basis for receiving FAA grants, which require a 10% local match.
- Reviewed future projects list. Each project will have a separate grant to be approved by the Board.
- For the next year, he will be catching up on paperwork/mapping associated with the Lee Vining and Bryant Field Airports.
  - Will consider land acquisition next to Bryant Field, and make additional improvements to Lee Vining (adding a weather station).
  - The FAA wants perimeter fences.
  - The aviation community is interested in hangars.
- Today's action is just approval of the plan; there are no fiscal obligations at this point. The Board will have the opportunity to revisit projects.

CLERK OF THE BOARD

12a) **Board of Supervisors Meetings--location change of third monthly meeting** (Lynda Roberts) - Location of the Board of Supervisors' third regular meeting of each month.

**R13-03** **Action:** Adopt Resolution No. R13-03 changing the location of the third regular board meeting of each month for a 12-month period.

**Johnston moved; Alpers seconded**

**Vote: 5 Yes; 0 No**

Lynda Roberts, Clerk of the Board of Supervisors: Reviewed the information contained in the board packet. Exhibits 1 and 2 show attendance at meetings in Bridgeport and Mammoth, but attendance is really determined by the item being discussed and not the location of the meeting. Because of this, attendance numbers can be somewhat misleading.

- The board agreed that the Clerk of the Board no longer needs to keep track of attendance.

Board Discussion

- **Supervisor Johnston:** One meeting a month in Mammoth has been successful, and there is enough evidence to make this permanent unless changed by the board in the future. The video works well, and the set-up cost is probably less than \$1,200 per year

since this figure does not account for money saved by department heads not driving to Bridgeport.

- **Supervisor Stump:** Supports holding the third meeting in Mammoth so residents in South County have the opportunity to attend, which they deserve. He supports making this a permanent arrangement, but can also support the annual review.
- **Supervisor Fesko:** The vast majority of his district is in North County and many people feel strongly about holding all the meetings in Bridgeport; people attend a meeting for a particular topic regardless of location. During his campaign, he found that people in Mammoth tend to identify with the Town and not the County. If the board maintains the annual review of this item, he can support holding the third meeting in Mammoth, and suggested scheduling items pertinent to South County on the third monthly agenda.
- **Supervisor Hunt:** His entire district is in Mammoth Lakes, and it is necessary for his constituency to have the opportunity to address the board face to face. Recognizes that Bridgeport is the county seat, but supports having one regular meeting in Mammoth and agendizing South County items for that meeting. Would like this to be a permanent arrangement until brought up for discussion again.
- **Supervisor Alpers:** About 70% of his district is in Mammoth, and there is much interest about County issues given the Town's financial situation. Can support reviewing this issue annually, or making the change permanent unless agendized for future discussion.

12b) Supervisors' Appointments to Boards, Commissions, and Committees (Lynda Roberts) - Mono County Supervisors serve on various boards, commissions, and committees for one-year terms that expire on December 31st. Each January, the Board of Supervisors makes appointments for the upcoming year.

**NO  
MOTION**

**Action:** Appoint Supervisors to boards, commissions, and committees for 2013.

Board Comments

- **Supervisor Hunt:** Appointments are not necessarily district specific.
- **Supervisor Stump:** Currently attends RPAC and community group meetings, and the water group meeting, so he has seven commitments in place.

Appointments as follows:

- **Airport Land Use Commission**
  - Byng Hunt, Fred Stump, Larry Johnston (alternate)
  - Scott Burns reviewed upcoming issues.
- **Alcohol, Drug, Mental Health Combined Advisory Board**
  - Byng Hunt, Larry Johnston (alternate)
- **Bodie Hills Coordinating Resource Management Planning Steering Committee**
  - Tim Fesko
- **BLM Land Tenure Committee**
  - Byng Hunt
  - Issues are usually addressed at the Collaborative Planning Team meeting
- **Central Nevada Regional Water Authority (CNRWA)**
  - Tim Fesko
- **Central Sierra Conservation Resource Development Council**
  - Tim Alpers
- **California State Association of Counties (CSAC)**
  - Larry Johnston, Tim Fesko (alternate)
- **Conway Ranch Task Force**
  - Tim Fesko, Larry Johnston (alternate)
- **Coalition for Unified Recreation in the Eastern Sierra**
  - Byng Hunt, Tim Alpers (alternate)
- **Collaborative Planning Team, Mono County**
  - Byng Hunt, Larry Johnston (alternate)



**RESOLUTION NO. R14-**

**A RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF MONO,  
TEMPORARILY CHANGING THE LOCATION OF THE  
THIRD REGULAR BOARD MEETING OF EACH MONTH**

**WHEREAS**, in keeping with Government Code Section 25081 that allows the board of supervisors to change the place for one or more regular meetings to a location within the county other than the county seat if the board both (1) changes the location by ordinance, resolution, bylaw or other rule required for the conduct of business at a regular meeting of the body and (2) posts notice of the location change in a location that is freely accessible to the public no later than the prior regular meeting of the board; and

**WHEREAS**, the Board of Supervisors' regular meetings occur on the first three Tuesdays of every month (See Mono County Code section 2.01.010); and

**WHEREAS**, pursuant to Section 25081, the Board wishes to temporarily change the location of its third regular meeting of each month from the county seat of Bridgeport to another place within the county—namely, the Town of Mammoth Lakes—for a twelve-month period commencing in March of 2014 and ending in February of 2015.

**NOW THEREFORE BE IT RESOLVED** by the Mono County Board of Supervisors as follows:

SECTION ONE: During the period between (and including) March 18, 2014, and February 17, 2015, the location of the Board of Supervisors' third regular meeting of each month is hereby changed to the Board of Supervisors' Meeting (Conference) Room, 3<sup>rd</sup> Floor Sierra Center Mall, 452 Old Mammoth Road, in Mammoth Lakes, CA, or such other suitable facility in the Town of Mammoth Lakes as the Board may determine and designate during said period. Specifically, this change of location applies to regular Board meetings on the following dates: March 18, 2014; April 15, 2014; May 20, 2014; June 17, 2014; July 15, 2014; August 19, 2014;

1 September 16, 2014; October 21, 2014; November 18, 2014; December 16, 2014; January 20, 2015; and  
2 February 17, 2015.

3 SECTION TWO: Notice of the location change of each such meeting shall be posted by the Clerk in a  
4 location that is freely accessible to the public no later than the prior regular meeting of the board.

5 **APPROVED AND ADOPTED** this 7th day of January, 2014, by the following vote of the Board of  
6 Supervisors, County of Mono:

7 **AYES** :

8 **NOES** :

9 **ABSENT** :

10 **ABSTAIN** :

11  
12 **CHAIR of the BOARD OF SUPERVISORS**  
13 **COUNTY OF MONO**

14 **ATTEST:** **APPROVED AS TO FORM:**

15  
16  
17 **LYNDA ROBERTS**  
18 **CLERK OF THE BOARD**

19  
20  
21  
22  
23  
24  
25  
26  
27 **MARSHALL RUDOLPH**  
28 **COUNTY COUNSEL**



Larry Johnston □ District One   Fred Stump □ District Two   Tim Alpers □ District Three  
Tim Fesko □ District Four   Byng Hunt □ District Five

---

## **BOARD OF SUPERVISORS COUNTY OF MONO**

---

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517

(760) 932-5538 • FAX (760) 932-5531

*Lynda Roberts, Clerk of the Board*

# **NOTICE**

## **Mono County Board of Supervisors**

### **Location of Third Regular Board Meeting of Each Month**

Pursuant to Resolution #R14-\_\_\_\_ adopted by the Mono County Board of Supervisors at their regular meeting held on January 7, 2014, the third regular board meeting of each month will be held in the Board of Supervisors' Meeting Room, Suite 307, 3<sup>rd</sup> Floor Sierra Center Mall, 452 Old Mammoth Road, in Mammoth Lakes, California. This schedule will continue through the meeting of February 17, 2015.

#### Meeting Dates of Third Regular Board Meeting

March 18, 2014; April 15, 2014; May 20, 2014; June 17, 2014; July 15, 2014; August 19, 2014; September 16, 2014; October 21, 2014; November 18, 2014; December 16, 2014; January 20, 2015; and February 17, 2015



**RESOLUTION NO. R14-**

**A RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF MONO,  
CHANGING THE LOCATION OF THE  
THIRD REGULAR BOARD MEETING OF EACH MONTH**

**WHEREAS**, in keeping with Government Code Section 25081 that allows the board of supervisors to change the place for one or more regular meetings to a location within the county other than the county seat if the board both (1) changes the location by ordinance, resolution, bylaw or other rule required for the conduct of business at a regular meeting of the body and (2) posts notice of the location change in a location that is freely accessible to the public no later than the prior regular meeting of the board; and

**WHEREAS**, the Board of Supervisors' regular meetings occur on the first three Tuesdays of every month (See Mono County Code section 2.01.010); and

**WHEREAS**, pursuant to Section 25081, the Board wishes to change the location of its third regular meeting of each month from the county seat of Bridgeport to another place within the county—namely, the Town of Mammoth Lakes—commencing in March of 2014.

**NOW THEREFORE BE IT RESOLVED** by the Mono County Board of Supervisors as follows:

SECTION ONE: Commencing with the meeting of March 18, 2014, the location of the Board of Supervisors' third regular meeting of each month is hereby changed to the Board of Supervisors' Meeting (Conference) Room, 3<sup>rd</sup> Floor Sierra Center Mall, 452 Old Mammoth Road, in Mammoth Lakes, CA, or such other suitable facility in the Town of Mammoth Lakes as the Board may determine.

SECTION TWO: Notice of the location change of each such meeting shall be posted by the Clerk in a location that is freely accessible to the public no later than the prior regular meeting of the board.

**APPROVED AND ADOPTED** this 7th day of January, 2014, by the following vote of the Board of Supervisors, County of Mono:

1        **AYES**        :  
2        **NOES**        :  
3        **ABSENT**       :  
4        **ABSTAIN**     :

\_\_\_\_\_  
**CHAIR of the BOARD OF SUPERVISORS  
COUNTY OF MONO**

8        **ATTEST:**

**APPROVED AS TO FORM:**

9  
10  
11        \_\_\_\_\_  
**LYNDA ROBERTS  
CLERK OF THE BOARD**

\_\_\_\_\_  
**MARSHALL RUDOLPH  
COUNTY COUNSEL**





Larry Johnston □ District One   Fred Stump □ District Two   Tim Alpers □ District Three  
Tim Fesko □ District Four   Byng Hunt □ District Five

---

## **BOARD OF SUPERVISORS COUNTY OF MONO**

---

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517

(760) 932-5538 • FAX (760) 932-5531

*Lynda Roberts, Clerk of the Board*

# NOTICE

## Mono County Board of Supervisors

### Location of Third Regular Board Meeting of Each Month

Pursuant to Resolution #R14-\_\_\_\_ adopted by the Mono County Board of Supervisors at their regular meeting held on January 7, 2014, the third regular board meeting of each month will be held in the Board of Supervisors' Meeting Room, Suite 307, 3<sup>rd</sup> Floor Sierra Center Mall, 452 Old Mammoth Road, in Mammoth Lakes, California.



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: Clerk of the Board**

**TIME REQUIRED** 30 minutes (5 minute presentation; 25 minute discussion) **PERSONS APPEARING BEFORE THE BOARD** Lynda Roberts

**SUBJECT** Supervisors' Appointments to Boards, Commissions and Committees

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Mono County Supervisors serve on various boards, commissions, and committees for one-year terms that expire on December 31st. Each January, the Board of Supervisors makes appointments for the upcoming year.

### RECOMMENDED ACTION:

Appoint Supervisors to boards, commissions and committees for 2014.

### FISCAL IMPACT:

None.

**CONTACT NAME:** Shannon Kendall

**PHONE/EMAIL:** x5533 / skendall@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY  
32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

- [Committees.Commissions Appointments](#)
- [2013 List by Supervisor](#)
- [2013 List by Commission](#)

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
12/23/2013 7:09 AM	County Administrative Office	Yes
12/30/2013 8:51 AM	County Counsel	Yes
12/30/2013 3:06 PM	Finance	Yes



Larry Johnston ~ District One    Fred Stump ~ District Two    Tim Alpers ~ District Three  
Tim Fesko ~ District Four    Byng Hunt ~ District Five

---

## **BOARD OF SUPERVISORS COUNTY OF MONO**

---

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517

(760) 932-5538 • FAX (760) 932-5531

*Lynda Roberts, Clerk of the Board*

To:     Honorable Board of Supervisors

From:   Lynda Roberts, Clerk of the Board

Date:    January 7, 2014

Subject

Boards, Commissions, and Committees

Recommendation

Appoint Supervisors to boards, commissions, and committees for 2014.

Discussion

The Mono County Supervisors serve on various boards, commissions, and committees for one-year terms that expire on December 31<sup>st</sup>. Each January, the Board of Supervisors makes appointments for the upcoming year.

Regarding the appointments to RCRC Environmental Services Joint Powers Authority (ESJPA), in the past the Board of Supervisors has appointed Tony Dublino to act as an alternate delegate with all rights and privileges of the Delegate, including the right to be counted in constituting a quorum, to participate in the proceedings of the ESJPA, and to vote upon any and all matters. Please keep this in mind when reviewing appointments to the RCRC ESJPA.

At their meeting of December 17, 2013, the Board of Supervisors created the Treasury Oversight Committee and appointed Supervisor Johnston as a member and Supervisor Stump as an alternate member. Due to this recent action, the Treasury Oversight Committee is not included on the attached lists, but will be included when appointments are made for 2015.

Fiscal Impact

None

**MONO COUNTY BOARD MEMBERS**  
**APPOINTED TO COMMISSIONS & COMMITTEES**  
**2013**

**LARRY JOHNSTON – SUPERVISOR DISTRICT #1**

Airport Land Use Commission (Alternate)  
Alcohol, Drug, Mental Health combined Advisory Board (Alternate)  
Conway Ranch Task Force (Alternate)  
Collaborative Planning Team (Alternate)  
CSAC (California State Association of Counties)  
Eastern Sierra Child Support Regional Oversight Committee  
Eastern Sierra Council of Governmental Entities  
Great Basin Unified Air Pollution Control District  
Local Transportation Commission (Tom Farnetti, Alternate)  
Long Valley Hydrologic Advisory Committee  
Mammoth Lakes Housing  
Mammoth Mountain Ski Area Liaison Committee  
Mono County Children & Families Commission (Alternate)  
Town-County Liaison Committee (Alternate)  
YARTS JPA (Alternate)

**FRED STUMP – SUPERVISOR DISTRICT #2**

Airport Land Use Commission  
Community Corrections Partnership (Alternate)  
Emergency Services Council (ex-officio chair)  
Great Basin Unified Air Pollution Control District (Alternate)  
Local Agency Formation Commission (LAFCO)  
Local Transportation Commission (Lynda Salcido, Alternate)  
Mono County Senior Citizens Program  
Town-County Liaison Committee

**TIM ALPERS – SUPERVISOR DISTRICT #3**

Central Sierra Conservation Resource Development Council  
Coalition for Unified Recreation in the Eastern Sierra (Alternate)

Eastern Sierra Community College Committee  
Eastern Sierra Council of Governmental Entities (Alternate)  
Eastern Sierra Transit Authority (ESTA)  
Emergency Services Council (Alternate)  
Local Agency Formation Commission (LAFCO) (Alternate)  
Mammoth Mountain Ski Area Liaison Committee  
National Association of Counties  
Regional Council of Rural Counties (RCRC), CRHMFA Homebuyers Fund &  
Environmental Services Joint Powers Authority (ESJPA)  
YARTS JPA

#### **TIM FESKO – SUPERVISOR DISTRICT #4**

Bodie Hills Coordinating Resource Management Planning Steering Committee  
Central Nevada Regional Water Authority (CNRWA)  
California State Association of Counties (CSAC) (Alternate)  
Conway Ranch Task Force  
Economic Development Strategic Plan Sub-Committee  
Local Transportation Commission (Tim Hansen, Alternate)  
Mono County Senior Citizens Program  
National Association of Counties (Alternate)  
Regional Council of Rural Counties (RCRC), CRHMFA Homebuyers Fund &  
Environmental Services Joint Powers Authority (ESJPA) (Alternate)

#### **BYNG HUNT – SUPERVISOR DISTRICT #5**

Airport Land Use Commission  
Alcohol, Drug, Mental Health Combined Advisory Board  
BLM Land Tenure Committee  
Coalition for Unified Recreation in the Eastern Sierra  
Collaborative Planning Team  
Community Corrections Partnership  
Eastern Sierra Child Support Region Oversight Committee (Alternate)  
Eastern Sierra Council of Governmental Entities  
Eastern Sierra Transit Authority (ESTA)  
Emergency Services Council  
Great Basin Unified Air Pollution Control District  
Integrated Waste Management Act of 1989 Independent Hearing Panel  
for Local Enforcement Agency  
Inter-Agency Visitors' Center Board of Directors

Law Library  
Local Agency Formation Commission (LAFCO)  
Mammoth Lakes Chamber of Commerce (ex-officio member to serve as liaison)  
Mammoth Lakes Housing (Alternate)  
Mammoth Mountain Ski Area Liaison Committee (Alternate)  
Mono County Children & Families Commission  
Regional Council of Rural Counties (RCRC), CRHMFA Homebuyers Fund &  
Environmental Services Joint Powers Authority (ESJPA) (2<sup>nd</sup> Alternate)  
Sierra Nevada Conservancy  
Town-County Liaison Committee  
YARTS JPA

**MONO COUNTY BOARD OF SUPERVISORS  
2013 BOARD/COMMISSION/COMMITTEE MEMBERSHIP LIST**

Date of Appointment 01/08/2013 ~ Term Expires 12/31/2013

**AIRPORT LAND USE COMMISSION**

- Byng Hunt, Supervisor
- Fred Stump, Supervisor
- Larry Johnston, Supervisor Alternate

**ALCOHOL, DRUG, MENTAL HEALTH COMBINED ADVISORY BOARD**

- Byng Hunt, Supervisor
- Larry Johnston, Supervisor Alternate

**BODIE HILLS COORDINATING RESOURCE MANAGEMENT PLANNING STEERING COMMITTEE**

- Tim Fesko, Supervisor

**BLM LAND TENURE COMMITTEE (issues are addressed as part of the CPT)**

- Byng Hunt, Supervisor

**CENTRAL NEVADA REGIONAL WATER AUTHORITY (CNRWA)**

- Tim Fesko, Supervisor

**CENTRAL SIERRA CONSERVATION RESOURCE DEVELOPMENT COUNCIL**

- Tim Alpers, Supervisor

**CALIFORNIA STATE ASSOCIATION OF COUNTIES (CSAC)**

- Larry Johnston, Supervisor
- Tim Fesko, Supervisor Alternate

**CONWAY RANCH TASK FORCE**

- Tim Fesko, Supervisor
- Larry Johnston, Supervisor Alternate

**COALITION FOR UNIFIED RECREATION IN THE EASTERN SIERRA**

- Byng Hunt, Supervisor
- Tim Alpers, Supervisor Alternate



**COLLABORATIVE PLANNING TEAM, MONO COUNTY**

- Byng Hunt, Supervisor
- Larry Johnston, Supervisor Alternate

**COMMUNITY CORRECTIONS PARTNERSHIP**

- Byng Hunt, Supervisor
- Fred Stump, Supervisor Alternate

**ECONOMIC DEVELOPMENT STRATEGIC PLAN SUB-COMMITTEE**

- Tim Fesko, Supervisor

**EASTERN SIERRA CHILD SUPPORT REGIONAL OVERSIGHT COMMITTEE**

- Larry Johnston, Supervisor
- Byng Hunt, Supervisor Alternate

**EASTERN SIERRA COMMUNITY COLLEGE COMMITTEE**

- Tim Alpers, Supervisor

**EASTERN SIERRA COUNCIL OF GOVERNMENTAL ENTITIES**

- Byng Hunt, Supervisor
- Larry Johnston, Supervisor
- Tim Alpers, Supervisor Alternate

**EASTERN SIERRA TRANSIT AUTHORITY (ESTA)**

- Byng Hunt, Supervisor
- Tim Alpers, Supervisor

**EMERGENCY SERVICES COUNCIL, MONO COUNTY**

- Fred Stump, Supervisor (ex-officio chair)
- Byng Hunt, Supervisor
- Tim Alpers, Supervisor Alternate

**GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT**

Ted Schade, Air Pollution Control Officer, 157 Short Street, Suite 6, Bishop, California 93514  
760-872-8211, 760-872-6109 (fax)

- Larry Johnston, Supervisor
- Byng Hunt, Supervisor
- Fred Stump, Supervisor Alternate

**INTEGRATED WASTE MANAGEMENT ACT OF 1989 INDEPENDENT HEARING PANEL FOR LOCAL ENFORCEMENT AGENCY**

- **Byng Hunt**, Supervisor 11/3/2009-11/3/2013

**INTER-AGENCY COMMITTEE ON OWENS VALLEY LAND & WILDLIFE**

BLM Office (Bishop)

January 4, 2011: Removed from list; retain for future reference

**INTER-AGENCY VISITORS' CENTER BOARD OF DIRECTORS**

- **Byng Hunt**, Supervisor

**LAW LIBRARY, MONO COUNTY**

Board of Library Trustees

- **Byng Hunt**, Supervisor

**LOCAL AGENCY FORMATION COMMISSION (LAFCO)**

Scott Burns, Executive Officer (appointed 4/1/86)

- **Fred Stump**, Supervisor
- **Byng Hunt**, Supervisor
- **Tim Alpers**, Supervisor Alternate

**LOCAL TRANSPORTATION COMMISSION, MONO COUNTY**

- **Tim Fesko**, Supervisor (Tim Hansen, alternate)
- **Larry Johnston**, Supervisor (Tom Farnetti, alternate)
- **Fred Stump**, Supervisor (Lynda Salcido, alternate)

**LONG VALLEY HYDROLOGIC ADVISORY COMMITTEE**

- **Larry Johnston**, Supervisor

**MAMMOTH LAKES CHAMBER OF COMMERCE**

Mailing Address: P.O. Box 3268, Mammoth Lakes, CA 93546 Phone: (760) 934-3068

- **Byng Hunt**, Supervisor (ex-officio member to serve as liaison)

**MAMMOTH LAKES HOUSING**

- **Larry Johnston**, Supervisor
- **Byng Hunt**, Supervisor Alternate

### **MAMMOTH MOUNTAIN SKI AREA LIAISON COMMITTEE**

- **Larry Johnston**, Supervisor
- **Tim Alpers**, Supervisor
- **Byng Hunt**, Supervisor Alternate

### **MONO COUNTY CHILDREN & FAMILIES COMMISSION**

P. O. Box 130, Mammoth Lakes, CA 93546, 760-924-7626, Fax 760-934-8443

- **Byng Hunt**, Supervisor
- **Larry Johnston**, Supervisor Alternate

### **MONO COUNTY SENIOR CITIZEN PROGRAM**

- **Tim Fesko**, Supervisor
- **Fred Stump**, Supervisor

### **NATIONAL ASSOCIATION OF COUNTIES**

- **Tim Alpers**, Supervisor
- **Tim Fesko**, Supervisor Alternate

### **REGIONAL COUNCIL OF RURAL COUNTIES (RCRC)/CRHMFA Homebuyers Fund & Environmental Services Joint Powers Authority (ESJPA)**

1020 12<sup>th</sup> Street, Suite 200, Sacramento, California 95814

- **Tim Alpers**, Supervisor
- **Tim Fesko**, Supervisor Alternate
- **Byng Hunt**, Supervisor 2<sup>nd</sup> Alternate
- **Tony Dublino**, Solid Waste (backup)

### **SIERRA NEVADA CONSERVANCY**

Bishop Office: 351 Pacu Lane, Ste 200, Bishop, CA 93514, 760-872-1120

- **Byng Hunt**, Supervisor

### **SOLID WASTE TASK FORCE**

January 8, 2013: No appointment made; composition of committee changed

### **TOWN-COUNTY LIAISON COMMITTEE**

- **Byng Hunt**, Supervisor
- **Fred Stump**, Supervisor
- **Larry Johnston**, Supervisor Alternate

**YARTS JPA**

- **Tim Alpers**, Supervisor
- **Byng Hunt**, Supervisor
- **Larry Johnston**, Supervisor Alternate



**OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS**

**REGULAR AGENDA REQUEST**

Print

**MEETING DATE**     January 7, 2014

**TIME REQUIRED**

**SUBJECT**             Closed Session--Human Resources

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph, John Vallejo, Leslie Chapman, Bill Van Lente and Jim Leddy. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

**RECOMMENDED ACTION:**

**FISCAL IMPACT:**

**CONTACT NAME:**

**PHONE/EMAIL:** /

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR **PRIOR TO 5:00 P.M. ON THE FRIDAY 32 DAYS PRECEDING THE BOARD MEETING**

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available

**History**

Time

Who

Approval

12/11/2013 10:22 AM	County Administrative Office	Yes
12/30/2013 8:51 AM	County Counsel	Yes
12/5/2013 2:25 PM	Finance	Yes



**OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS**

**REGULAR AGENDA REQUEST**

Print

**MEETING DATE**      January 7, 2014

**TIME REQUIRED**

**SUBJECT**              Closed Session - Conference with  
Legal Counsel

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. Paragraph (1) of subdivision (d) of Government Code section 54956.9. Name of case: Gleason v. Secretary of State et. al.

**RECOMMENDED ACTION:**

**FISCAL IMPACT:**

**CONTACT NAME:**

**PHONE/EMAIL:** (760) 932-5414 /

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
***PRIOR TO 5:00 P.M. ON THE FRIDAY  
32 DAYS PRECEDING THE BOARD MEETING***

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available

**History**

Time	Who	Approval
12/26/2013 9:25 AM	County Administrative Office	Yes
12/30/2013 9:20 AM	County Counsel	Yes
12/30/2013 3:11 PM	Finance	Yes



**OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS**

**REGULAR AGENDA REQUEST**

Print

**MEETING DATE**      January 7, 2014

**TIME REQUIRED**

**SUBJECT**              Closed Session - Public Employee  
Performance Evaluation: County  
Administrator

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Administrator.

**RECOMMENDED ACTION:**

**FISCAL IMPACT:**

**CONTACT NAME:** Jim Leddy

**PHONE/EMAIL:** (760) 932-5414 / jleddy@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
***PRIOR TO 5:00 P.M. ON THE FRIDAY  
32 DAYS PRECEDING THE BOARD MEETING***

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available

**History**

Time	Who	Approval
12/26/2013 11:28 AM	County Administrative Office	Yes
12/30/2013 8:55 AM	County Counsel	Yes
12/30/2013 3:11 PM	Finance	Yes





OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

**MEETING DATE** January 7, 2014

**Departments: Information Technology; Community Development**

**TIME REQUIRED** 45 minutes (15 minute presentation;  
30 minute discussion)

**PERSONS  
APPEARING  
BEFORE THE  
BOARD**

Nate Greenberg; Scott Burns

**SUBJECT** Communications Chapter - General  
Plan Update

---

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Provide a workshop that reviews the Goals and Objectives contained within the draft language of the new General Plan Telecommunications Chapter.

---

### RECOMMENDED ACTION:

Informational item only. Provide direction to staff regarding changes to language or next steps on incorporating into General Plan.

---

### FISCAL IMPACT:

None.

---

**CONTACT NAME:** Nate Greenberg

**PHONE/EMAIL:** (760) 924-1819 / ngreenberg@mono.ca.gov

---

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

---

### MINUTE ORDER REQUESTED:

YES  NO

---

### ATTACHMENTS:

Click to download

[Staff Report](#)

[PowerPoint Presentation](#)

[Telecommunication Chapter - Draft](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
12/26/2013 9:24 AM	County Administrative Office	Yes
12/30/2013 8:51 AM	County Counsel	Yes
12/30/2013 3:06 PM	Finance	Yes



**INFORMATION TECHNOLOGY  
COUNTY OF MONO**

---

P.O. Box 7657 - MAMMOTH LAKES, CALIFORNIA 93546  
(760) 924-1819 • FAX (760) 924-1801 • ngreenberg@mono.ca.gov

*Nate Greenberg*  
*Information Technology Director*

To: Honorable Board of Supervisors

From: Nate Greenberg, Information Technology Director

Date: December 23, 2013

**Subject**

General Plan - Telecommunications Chapter Workshop

**Discussion**

For the past year, County staff have been working to develop a new chapter for the General Plan focused on Telecommunications. This process has included staff from Community Development, Public Works, County Counsel, and Information Technology departments, as well as members of a 'Technical Advisory Committee' to develop appropriate objectives and policies. In addition, the concepts within this document have been presented to RPACs throughout the County for comment and input.

This workshop will review the Goals and Objectives contained within the chapter, implications, and potential considerations. Based on feedback received, staff will proceed with incorporating the content with the next General Plan update.

**Recommendation**

Review information and provide direction to staff for next steps.

**Fiscal Impact**

None.

# Communications Policy

## General Plan Update



January, 2004



# “LAST MILE PROVIDER PLAN”

- Develop a ‘plan’ to facilitate the Last Mile implementation of broadband service to our communities
- Evaluate existing conditions, promote installation of service, and streamline future project approvals
- Ensure County policies and procedures exist, are understood, applicable, and capable of supporting such projects
- Two-pronged approach
  - **Internal** : Develop and implement General Plan policies that support telecom & Last Mile projects
  - **External** : Develop information for providers and consumers that facilitates understanding of policies & decision making



# POLICY DEVELOPMENT PROCESS

1. Work with County staff and Board of Supervisors to develop basic high-level concepts
2. Outreach to RPACs with four main goals
  - a) Provide information about how Digital 395 will impact that community
  - b) Get community reaction to broadband deployment concepts
  - c) Receive feedback regarding desired technology & distribution
  - d) Further understand unique characteristics of communities
3. Synthesize ideas and feedback and develop initial draft of policy language
4. Form a Technical Advisory Committee to help review and further refine policy language
5. Outreach internally and publicly for further refinement
6. Pursue General Plan adoption



# GENERAL PUBLIC FEEDBACK

- Want the best service possible, as quickly as possible
- Prefer wireline over wireless, but want some want form of high-speed service
- Accept some visual impact (overhead infrastructure) in exchange for quality of service
- Feel that co-location of facilities is important
  - Look at existing locations first
  - Look toward public facilities (fire stations, etc.) for new sites
  - Evaluate sites for effectiveness so as to not create them unnecessarily (cell coverage)



# COMMUNICATIONS CHAPTER : FOCUS AREAS

Four primary sections :

- **Broadband Deployment & Adoption**
- **Construction of Communications Infrastructure**
- **Strategic Planning for Communications Infrastructure**
- **Broadband Access, Adoption, and Application**





# BROADBAND DEPLOYMENT & ADOPTION

- **GOAL:**

Facilitate the distribution of the best broadband service to as many users within community areas and key transportation corridors as possible, in a timely and cost effective manner that avoids or mitigates adverse impacts to visual and natural resources.

- **OBJECTIVES:**

1. Work with providers to deliver the best service possible to Mono County residents, businesses, and visitors.
2. Deploy broadband to as many community areas and key transportation corridors as possible, and pursue additional providers to increase competition, and improve quality of service.
3. Minimize the impact on the environment and scenic resources while implementing projects.



# CONSTRUCTION OF COMMUNICATIONS INFRASTRUCTURE

- **GOAL:**

Incorporate designs compatible with future communications infrastructure when designing public facilities such as streets, campuses, buildings, and public spaces. Accommodate potential future need for undergrounding of infrastructure when reconstructing or remodeling. Provide locations and development standards for communication infrastructure located throughout the County.



# CONSTRUCTION OF COMMUNICATIONS INFRASTRUCTURE

- **OBJECTIVES:**

1. Utilize existing infrastructure and facilities before constructing new ones.
2. Utilize public spaces or property for communication sites or infrastructure.
3. Promote and facilitate the development of underground infrastructure to accommodate current and future use demands, protect assets, and minimize future disturbance.
4. Develop and manage underground infrastructure as 'basic infrastructure' that adheres to standards, is available for public use, and is managed as an asset in line with other public property.
5. Continually look for opportunities to underground existing overhead infrastructure and evaluate priorities based on safety and reliability factors and community input.
6. Explore and utilize above-ground infrastructure opportunities when underground solutions are not viable, or would otherwise prevent customers from having access to the best available service.



# STRATEGIC PLANNING FOR COMMUNICATIONS INFRASTRUCTURE

- **GOAL:**

Work with local service providers, agencies, and other resources to arrive at appropriate and creative solutions to solve communications challenges. Utilize Digital 395 infrastructure to support communication needs including expansion and development of future infrastructure.

- **OBJECTIVES:**

1. Evaluate opportunities and establish a plan for future communications infrastructure needs and development opportunities.
2. Develop and maintain a comprehensive inventory of communications, and related infrastructure for planning purposes.
3. Leverage existing broadband infrastructure, including Digital 395, before constructing new infrastructure.



# BROADBAND ACCESS, ADOPTION, AND APPLICATION

- **GOAL:**

Work with providers to extend service to as many residents and businesses as possible. Find ways to utilize technology to improve public safety, quality of life, and economic stability of the region as a whole, while improving government accountability and transparency.

- **OBJECTIVES:**

1. Leverage Digital 395 and other broadband and communications resources to improve public safety.
2. Focus efforts on economic development as it relates to or relies on improved broadband and accessibility.
3. Improve accessibility to broadband for personal consumption within community areas at a level of service and price comparable to urban centers.
4. Utilize Digital 395 and technology as a whole to improve government accountability and accessibility.

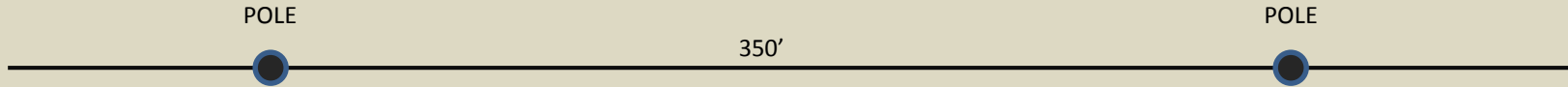


## ADDITIONAL CONSIDERATIONS

- Leverage opportunities to install conduit in roadways
  - City of Watsonville, CA figures that every time a road is cut the integrity of that road is reduced by 40%
- Change in CPUC loading factors for pole calculations is going to make future overhead more difficult and expensive
- Evaluate Franchise/License fees to raise revenue or incentivize



# OVERHEAD vs. UNDERGROUND COSTS



Example : 350' of wireline with two poles

UNDERGROUND CONSTRUCTION			
	Price / Ft.	Distance	Approx. Cost
Plowing	\$3	350'	\$1,050
Trenching	\$10-\$15	350'	\$3,050 - \$5,250
Boring	\$30-\$100	350'	\$10,500 - \$30,500

OVERHEAD PLACEMENT		
	Cost / Pole	Approx. Cost
Attachment Fee	\$7 - \$10 / pole / mo.	\$168 - \$200/yr.
Pole Replacement	\$10k - \$30k / pole	\$20 - \$60k

# CHAPTER X.

## COMMUNICATIONS

### Sections:

x.010	Purpose and Background
x.020	Definitions
x.030	Broadband Deployment & Implementation
x.040	Construction of Communications Infrastructure
x.050	Strategic Planning for Communications Infrastructure
x.060	Broadband Access, Adoption, and Application
x.070	Additional Considerations

### **x.010 : Purpose and Background**

This chapter is intended to provide information, guidance, and recommendations as they relate to the development, implementation, and accessibility of communications infrastructure, particularly basic telephone, wireless telephone, and broadband Internet.

Telecommunications infrastructure and services are critical components for long-term growth and sustainability for the County, as they provide the basic resources necessary for businesses to operate and add to the quality of life for our residents. Increasingly, business success is tied to online accessibility, including e-commerce solutions, discoverability, and the overall necessity of high-quality broadband capable of high speeds with symmetric up and down transfer rates. Of equal importance is broadband to residents for access to online education, research, employment, health care, and government resources.

Mono County has historically suffered from a lack of quality broadband due to our rural nature, low population, and dispersed community areas. With the installation of Digital 395 (see section x.020 for more information) in 2013, however, the capacity issues plaguing this area will be resolved, and new opportunities will present themselves. As such, this chapter is intended to better direct the deployment and utilization of Digital 395.

This content draws from a number of technical resources, reports, and other jurisdictions, including, but not limited to the Humboldt County General Plan, policy work developed by the City of Santa Cruz, the Eastern Sierra Innovation and Prosperity Report developed by Sierra Business Council, and the Mono County Economic Development Strategy. Each of these resources, in conjunction with their applicability to Mono County, helped to better identify some issues, opportunities, and constraints, which are briefly addressed below, and more specifically addressed in the Goals, Objectives, and Policies that follow.

### **Issues, Opportunities, and Constraints**

The County sees the need to prioritize broadband market development, and engage in the regional deployment of this critical infrastructure. Participation in local, regional, statewide, and federal efforts that stand to improve the diffusion of broadband and communications technology is an important part of achieving the goals and objectives outlined below.



### **Mobile broadband and Cellular Service**

With the rapid advances in mobile device technology, both providers and subscribers are increasingly looking to mobile solutions to help fill communication gaps and provide alternatives to typical fixed deployments. While the mobile alternatives are extremely valuable in fulfilling their role, they are not the universal solution for broadband issues throughout the County.

The primary limitations with the mobile broadband solution are the data caps placed on customers, the overall cost of the service, and the typical requirement of a long-term contract in order to receive the service.

Another limitation with mobile broadband (and cellular service in general) is the effective coverage area throughout the County. For the most part, some form of cellular coverage exists in almost every community; however, is carrier dependent. AT&T and Verizon are the two main carriers, whose coverage models overlap, but do not provide the same coverage in all of the same areas – meaning that a provider may have coverage in one community but not another. In addition there are significant sections of the primary highway corridors without coverage, posing safety concerns and inconvenience for those utilizing these transportation routes.

It is logical that cellular coverage throughout the County will improve as new sites are developed and existing sites upgraded. Digital 395 stands to help with this by providing much needed backhaul to the sites, but evaluating locations and facilitating permitting will require a hands-on approach by staff and stakeholders to ensure a positive outcome.

### **Broadband Accessibility, Reliability, and Adoption**

Mono County continues to struggle with the basic aspects of broadband accessibility, reliability, and adoption. These three aspects are closely related to each other, as the region is generally starved of quality Internet. Where service is accessible (mainly in the major community areas), the reliability and cost of that service has not been great enough to motivate adoption. This, coupled with the demographics of the region (a mix of income levels, education, age, and ethnicities), results in a substantial portion of the population who do not use the Internet.

Outside of the Town of Mammoth Lakes and the community of June Lake, communities generally are limited to one Internet Service Provider (ISP). For the most part, smaller communities are serviced by a single fixed-wireless provider (Schat.net), leaving only one other small, wireline provider (Escape Broadband) to compete with the bigger companies offering wireline service – Suddenlink and Verizon.

As a result, the market in each community is dominated by a single (non-mobile) carrier. This limits consumer choice and stifles competition. In addition, business use of Internet is limited to residential grade service plans, with only a small number of T1 type connections, or similar higher speed service offerings. This has not only resulted in those businesses being confined to Mammoth or June Lake, but also made it difficult or financially impractical for businesses to get higher speeds or symmetric service offerings.

## x.020 : Definitions

- **Anchor** : As it relates to Digital 395, these are government, education, and medical facilities, and ISP points of interconnect where services are provided by Digital 395.
- **Broadband** : A term used to describe higher speeds of access to the Internet (in contrast to “dial-up” speeds) in both residential and commercial connections.
- **California Advanced Services Fund (CASF)** : Created on December 20, 2007, the CASF provides grants to “telephone corporations” to bridge the “Digital Divide” in unserved and underserved areas throughout the state.
- **California Broadband Cooperative (CBC)** : A not-for-profit telephone cooperative that will serve as the long-term owner and operator of the Digital 395 network.
- **Digital 395** : A 583 mile long Middle Mile fiber optic project between Carson City, NV and Barstow, CA. This project was jointly funded by the U.S. Department of Commerce under the American Recovery and Reinvestment Act of 2009 (ARRA), and a ratepayer fund dedicated to broadband development known as the California Advanced Services Fund which is administered out of the California Public Utilities Commission.
- **Fiber Access Point (FAP)** : Typically located in underground vaults, these are points where it is possible to gain access to fibers broken out from the Digital 395 backbone for the purpose of providing a point of interconnect for future middle or last mile services.
- **Fixed Wireless** : A term used to describe broadband service that is offered by an Internet Service Provider via wireless infrastructure that is installed on premise and aimed at a repeater site.
- **Last Mile** : In utilities and telecommunication networks, this is the local network that delivers service to consumers, as developed and carried out by Internet Service Providers (ISPs).
- **Middle Mile** : In utilities and telecommunication networks, this is the core portion of the infrastructure that provides the high-capacity, long-haul routes from points of origin for service to local service providers and smaller distribution networks.
- **Mobile Wireless** : A general term used to describe broadband service that is offered typically by cellular carriers via 3G, 4G, LTE or similar types of networks to smartphones, tablets, and other mobile technology.
- **Network Interface Device (NID)** : A piece of technology installed at anchors where the Digital 395 network is terminated and can be interfaced with a local network.
- **Node** : As it relates to Digital 395, these are locations along the fiber route where hardware is located that amplifies signal in the fiber, routes traffic on the network, and provides points of interconnect.

- **Praxis Associates, Inc.** : A recognized California based fiber optic development firm responsible for securing the funding and serving as the lead on the design, management, and construction of the Digital 395 project.
- **Unserved, Under-Served, Served** : Terms developed and defined by the CASF that describe the level of service that a subscriber receives based on upstream and downstream speeds of their connection. The speed thresholds between each of these categories change over time based on technology and availability, so are not directly referenced here.
- **Wireline** : A general term that is used to describe a connection to the Internet which is provided via a hardwire, as in the case of DSL, Cable, or Fiber based technologies.

### **x.030 : Broadband Deployment & Implementation**

**Goal #1** : Facilitate the distribution of the best broadband service to as many users within community areas and key transportation corridors as possible, in a timely and cost effective manner that avoids or mitigates adverse impacts to visual and natural resources.

**Objective 1A** : Work with providers to deliver the best service possible to Mono County residents, businesses, and visitors.

Policy 1A-1 : Providers shall develop new infrastructure projects using the best available technology that meets or exceeds current industry standards.

*Action 1A-1.1 : Monitor standards set by the California Advanced Services Fund (CASF) for 'Served' communities.<sup>1</sup> Encourage providers to deliver services that meet or exceed these standards.*

*Action 1A-1.2: Encourage new infrastructure projects to use high-capacity wireline solutions (such as Fiber-to-the-Premise). Providers should demonstrate substantial justification for alternative technologies and dispersed infrastructure requirements when wireline is impractical.*

Policy 1A-2 : Providers shall develop and deliver services that improve accessibility to high quality broadband while protecting consumers and ensuring fair and equal access to those utilizing services within the County.

*Action 1A-2.1 : Ensure Internet Service Providers (ISPs) possess a current Business License, and be current on all applicable Franchise Licenses, taxes, and fee payments.*

*Action 1A-2.2 : Ensure ISPs furnish and uphold Customer Service Standards that provide privacy protection, clear service and billing procedures, reliability, or a similar service level agreement, and means by which to contest service not meeting said standards.*

*Action 1A-2.3 : Establish and maintain consumer awareness information and materials. Periodically review and publish information on local providers based on service standards, including but not limited to coverage area, speeds, etc.*

**Objective 1B** : Deploy broadband to as many community areas and key transportation corridors as possible, and pursue additional providers to increase competition, and improve quality of service.

Policy 1B-1 : Work with providers and other entities to develop projects that deliver broadband service to all communities.

*Action 1B-1.1 : Establish and maintain a list of high priority communities that can be referred to when providers are looking to build new projects.*

*Action 1B-1.2: Actively seek out providers and other reasonable alternatives to establish broadband service in Unserved communities throughout the County.*

*Action 1B-1.3 : Coordinate and work with Eastern Sierra Connect Regional Broadband Consortium (ESCRBC) and other entities to locate funding opportunities for providers interested in building projects in Unserved and Underserved communities.*

*Action 1B-1.4 : Pursue additional providers or other reasonable alternatives to improve the quality of service, competition, and reliability in communities throughout the County.*

*Action 1B-1.5: Look for opportunities to establish access to broadband in other rural or outlying areas for the purpose of enhancing Health & Safety or Economic Development purposes where traditional approaches or solutions are impractical.*

**Objective 1C** : Avoid or mitigate significant adverse impacts on the environment and scenic resources while implementing projects.

Policy 1C-1 : Providers shall utilize distribution practices that avoid or mitigate significant environmental and visual impacts.

*Action 1C-1.1 : Look for underground opportunities in all project areas before considering overhead options.*

*Action 1C-1.2 : Require substantial justification for overhead distribution before permitting new projects.*

*Action 1C-1.3 : Use existing utility corridors and common poles wherever possible, when overhead distribution has been determined to be necessary and appropriate.*

*Action 1C-1.4 : Require providers to seek out other route options before installing new poles.*

*Action 1C-1.5 : Follow policies and procedures set forth in the Mono County General Plan with respect to overhead distribution lines, including those specified in Chapter 11.010.*

**Policy 1C-2** : Providers shall adhere to applicable regulations and guidelines when installing new infrastructure.

*Action 1C-2.1 : Require new distribution lines be installed underground within Scenic Highway corridors unless a variance is granted by Mono County, and/or a deviation authorization is obtained from the California Public Utilities Commission for overhead installation.*

*Action 1C-2.2 : Require that a use permit be obtained prior to allowing overhead construction in County Rights of Way other than scenic corridors.*

*Action 1C-2.3 : Ensure that new wireline infrastructure is installed underground in conformity with Mono County Code and General Plan Guidelines, including those presented in Chapter **xx.030, Section 2x**.*

*Action 1C-2.4 : Require new towers & antennas for wireless distribution be placed in inconspicuous locations consistent with Mono County design guidelines, General Plan requirements, and CEQA.*

*Action 1C-2.5 : Ensure that any new overhead lines be installed in the least conspicuous manner possible consistent with Mono County design guidelines, General Plan requirements, and CEQA. **See chapter sections 11.010D & xx.030 2x**.*

*Action 1C-2.6 : Allow the installation of new poles when necessary to mitigate substantial adverse impacts, and in a manner consistent with section 11.010.*

#### **X.040 : Construction Of Communications Infrastructure**

**Goal #2** : Incorporate designs compatible with future communications infrastructure when designing public facilities such as streets, campuses, buildings, and public spaces. Accommodate potential future need for undergrounding of infrastructure when reconstructing or remodeling. Provide locations and development standards for communication infrastructure located throughout the County.

**Objective 2A** : Utilize existing infrastructure and facilities before constructing new ones.

**Policy 2A-1** : Co-locate facilities and infrastructure to avoid proliferation of new sites and carefully choose sites to encourage the best coverage possible.

*Action 2A-1.1 : Utilize existing wireline infrastructure (through fiber swaps, use of existing Digital 395 backbone, etc.) before constructing new wirelines.*

*Action 2A-1.2 : Place new wireline infrastructure in existing underground conduit before installing new conduit or new overhead lines.*

*Action 2A-1.3 : Place new telecom facilities and infrastructure on properties or at sites where other facilities exist before looking for new locations.*

*Action 2A-1.4 : Carefully evaluate new telecom sites so as to provide the best possible service and coverage area for the project.*

*Action 2A-1.5 : Require communication providers / developers to provide substantial justification as to the need for new infrastructure or locations before permitting such construction.*

*Action 2A-1.6 : Developers shall construct cell sites and antennae array towers with the capacity for additional providers to utilize that facility. Refer to the Mono County Design Guidelines for more information.*

*Action 2A -1.7 : Maintain an inventory of shadow areas and coverage gaps throughout the County. Seek out projects to help fill critical ones in line with County objectives.*

**Policy 2A-2** : Develop sites using Context Sensitive Solutions, including the use of design and screening tactics that minimize visual impact on their surroundings.

*Action 2A-2.1 : Encourage placement of towers outside of community areas.*

*Action 2A-2.2 : Mitigate tower height by locating towers on hill tops (other than ridgelines) or other high points.*

*Action 2A-2.3 : Providers shall remove infrastructure no longer in use within one year of discontinuing service to an area.*

**Objective 2B** : Utilize public spaces or property for communication sites or infrastructure.

**Policy 2B-1** : The County shall designate sites or space for communication facilities, including cabinet structures, pedestals, antennas, etc. where appropriate and feasible.

*Action 2B-1.1 : Evaluate County property for viable sites and establish an inventory of locations, permissible uses, and associated costs.*

*Action 2B-1.2 : Construct new facilities or perform improvements taking into consideration future communication infrastructure.*

*Action 2B-1.3 : Consolidate and co-locate facilities in logical locations that have access to power and backhaul without interfering with County infrastructure.*

*Action 2B-1.4 : Review locations of Digital 395 Fiber Access Points (FAPs) within County Rights of Way and determine how providers may utilize or access FAP and install necessary infrastructure in Right of Way.*

*Action 2B-1.5 : Establish a Capital Project Review & Prioritization Committee to help plan and oversee capital project development and ensure integration of County standards into projects.*

**Objective 2C** : Promote and facilitate the development of underground infrastructure to accommodate current and future use demands, protect assets, and minimize future disturbance.

Policy 2C-1 : Providers shall utilize existing conduit where available and feasible.

*Action 2C-1.1 : Require providers to utilize existing conduit infrastructure before installing new infrastructure.*

*Action 2C-1.2 : Require providers to show evidence of need for new conduit prior to permitting construction.*

*Action 2C-1.3 : Establish a permit review process for new communications infrastructure that encompasses all interested County departments and key players.*

Policy 2C-2 : Projects conducted on County property, including Rights of Way, shall follow a “Dig Once” objective.

*Action 2C-2.1 : Install conduit in public streets during construction/re-construction for future communications infrastructure use.*

*Action 2C-2.2 : Look for opportunities for Special Districts to own and lease conduit space to providers.*

*Action 2C-2.3 : Ensure that conduit in a public rights of way is managed with net-neutrality or open standards such that any future providers may utilize infrastructure.*

*Action 2C-2.4 : Accommodate construction of conduit laterals leading to private property for potential future use.*

Policy 2C-3 : Interested parties shall be notified of any opportunity for installing additional conduit or infrastructure in open trenches in County Right of Way.

*Action 2C-3.1 : Look for opportunities to place new conduit through joint utility trenches.*

*Action 2C-3.2 : Require formal notification to utilities and interested parties of a joint trench opportunity prior during design phase of project and prior to permit issuance.*

*Action 2C-3.3 : Require installation of secondary or tertiary conduit whenever new conduit is being installed in public Rights of Way to accommodate future use/growth.*

**Objective 2D** : Develop and manage underground infrastructure as 'basic infrastructure' that adheres to standards, is available for public use, and is managed as an asset in line with other public property.

Policy 2D-1 : Underground infrastructure shall be installed in accordance with standards regarding placement, material, and method.

*Action 2D-1.1 : Conduit in public streets should be placed a minimum depth of three feet and meet Mono County Department of Public Works street & grading standards.*

*Action 2D-1.2: Conduit installed for the purposes of Middle-Mile or long-haul routes, or that is installed in major streets or arterials should be the equivalent minimum of 4" in diameter to accommodate future expansion needs.*

*Action 2D-1.3 : Conduit installed for the purposes of Last-Mile or distribution routes should be a minimum of 1½" in diameter.*

*Action 2D-1.4 : Conduit should be installed at the intersection of streets that is the equivalent of at least 4" in diameter and made accessible via vaults or similar appropriate means.*

*Action 2D-1.5 : Encourage the use of microduct or similar technology in conduit installations so as to segregate providers.*

*Action 2D-1.6 : A reasonable amount of space shall be retained by the owner of the underground infrastructure for the purpose of future expansion or service needs.*

Policy 2D-2 : Underground infrastructure in public Rights of Way shall be accessible and remain available for use by qualified providers.

*Action 2D-2.1 : Develop and maintain an inventory of underground conduit and infrastructure in a readily searchable manner, such as GIS.*

*Action 2D-2.2 : Require that all conduit in public Rights of Way contain Tracer Wire or be otherwise locatable using standard devices or means.*

*Action 2D-2.3 : Require that all new underground installations be mapped with GPS, or have accurate, georeferenced as-built digital drawings, and that such data is delivered to the County at the completion of construction.*

*Action 2D-2.4 : Require all new large-scale, commercially focused, underground infrastructure be submitted to Underground Service Alert (USA).*



*Action 2D-2.5 : Accept offers of dedication for underground infrastructure from private developers and maintain conduit in the public's interest.*

*Action 2D-2.6 : Work with special districts, quasi-public entities, or third-party companies and vendors for long-term ownership or management of underground conduit, so long as the infrastructure remains available to the public at a fair price and in an open and competitive manner.*

*Action 2D-2.7 : Allow developers who install conduit to recover their costs through renting or leasing space in conduit at a fair and competitive price until the point that the cost of installation is recovered.*

**Policy 2D-3** : The County shall consider communications conduit as a standard aspect of a street and exploit opportunities to install infrastructure when opportunities exist and are appropriate.

*Action 2D-3.1 : Conduit shall be incorporated in the design phase of new street, sidewalk, or other related transportation projects.*

*Action 2D-3.2 : Costs for construction and materials of conduit network in a new transportation project shall be factored into overall cost of said project.*

*Action 2D-3.3 : Establish a dedicated revenue account to be funded through leases or rents of County property for communications infrastructure, and to be made available for future conduit development and maintenance projects.*

*Action 2D-3.4 : When funding is not available for conduit, look for alternative sources including grants, special districts, or improvement district in advance of actual construction effort.*

**Objective 2E** : Continually look for opportunities to underground existing overhead infrastructure and evaluate priorities based on safety and reliability factors and community input.

**Policy 2E-1** : Utilize Rule 20, grant funds, public-private partnerships, or other funding opportunities to complete undergrounding projects.

*Action 2E-1.1 : Establish an underground project review committee to oversee and manage future underground project priorities, plan for projects, and seek out revenue or funding opportunities to complete them.*

*Action 2E-1.2 : Utilize a community-based public planning process to help identify and prioritize future undergrounding projects.*

*Action 2E-1.3 : Establish an inventory and set of priorities for each community for future undergrounding projects based on areas of high preference or priority, as driven by public safety, reliability, community benefit (commercial cores, downtowns, etc.), or visual blight issues.*

*Action 2E-1.4 : Seek out creative funding strategies, including loans, mortgages, public-private partnerships, grants, or other similar opportunities so as to expedite projects.*

*Action 2E-1.5 : Maintain an inventory of all underground districts and past funded projects in the County.*

**Objective 2F** : Explore and utilize above-ground infrastructure opportunities when providers have substantially demonstrated that underground solutions are not viable.

*Policy 2F-1 : Consider the development and placement of cell sites, radio repeaters, or similar infrastructure based on site feasibility, accessibility, coverage, and impact.*

*Action 2F-1.1 : Maintain an inventory of existing cell sites in Mono County, carriers present at each location, and approximate coverage area for each site.*

*Action 2F-1.2 : Perform gap analyses and determine holes in coverage patterns so as to better understand value of future cell site placement, as well as priority/target areas.*

*Action 2F-1.3 : Require new cell sites to accommodate at least two carriers, and encourage carriers to work with existing sites before establishing new ones.*

*Action 2F-1.4 : Require that applicants demonstrate the investigation of multiple site alternatives, and why the selected site is the preferred alternative. Require that applications include coverage area maps and GIS data based on new site location.*

*Action 2F-1.5 : Encourage use of public land for site location and pursue opportunities with federal agencies, special districts, or local agencies.*

*Action 2F-1.6 : Work with land management agencies to ensure knowledge and understanding of future development plans, County General Plan policies and guidelines, and find opportunities to synchronize policies and objectives between entities.*

*Action 2F-1.7 : Require that private property owners wishing to locate commercial communication infrastructure on their property for the benefit of consumers other than themselves secure a Director's Review approval prior to construction.*

*Policy 2F-2 : Install overhead distribution lines in the least conspicuous manner possible consistent with Mono County design guidelines, General Plan requirements, and California Environmental Quality Act requirements.*

*Action 2F-2.1 : The installation of overhead lines shall not significantly disrupt the visual character of the area. In evaluation of any potential visual impact, consideration shall be given to section 11.010D of the Mono County General Plan Land Use Element.*

*Action 2F-2.2 : Evaluate factors such as height that lines are placed on poles (where lower heights may better protect viewsheds), size, color, reflectivity, tension in line, etc. when reviewing projects.*

### **X.050 : Strategic Planning For Communications Infrastructure**

**Goal #3** : Work with local service providers, agencies, and other resources to arrive at appropriate and creative solutions to solve communications challenges. Utilize Digital 395 infrastructure to support communication needs including expansion and development of future infrastructure.

**Objective 3A** : Evaluate opportunities and establish a plan for future communications infrastructure needs and development opportunities.

Policy 3A-1 : Establish a Joint Communication Planning Committee to coordinate and review communication development projects in neighboring jurisdictions or with a regional perspective.

*Action 3A-1.1 : Develop a common set of standards and protocols for permitting, design, etc. that ensure consistency for providers and ensure the best delivery of service to our constituents.*

Policy 3A-2 : Develop a strategic plan for communications in Mono County.

*Action 3A-2.1 : Work with cellular providers and third party tower developers to gain an understanding of future development intentions.*

*Action 3A-2.2 : Develop and update a list of priority Unserved and Underserved areas throughout Mono County in need of broadband and engage Last-Mile Providers with the intent of developing projects in those areas.*

*Action 3A-2.3 : Catalog potential projects and future development plans in a GIS database for internal reference purposes and planning efforts.*

*Action 3A-2.4 : Evaluate Capital Improvement Plans (CIPs) for potential integration of broadband/communication projects.*

**Objective 3B** : Develop and maintain a comprehensive inventory of communications, and related infrastructure for planning purposes.

Policy 3B-1 : The County shall establish a GIS database containing locations and information on existing infrastructure in public rights of way.

*Action 3B-1.1 : Acquire maps, data, and other relevant information from special districts and service districts throughout the County who provide service to local residents.*

*Action 3B-1.2 : Inventory and develop a publicly accessible dataset that contains the best known locations for infrastructure that may be used by future providers for communication purposes, or potentially interfere with the installation of future communications infrastructure.*

Policy 3B-2 : Providers shall submit digital data or accurate maps depicting the location of newly installed or upgraded infrastructure.

*Action 3B-2.1 : Update existing databases with new information as it becomes available.*

**Objective 3C** : Leverage existing broadband infrastructure, including Digital 395, before constructing new infrastructure.

Policy 3C-1 : Providers shall provide substantial justification for additional infrastructure development prior to permit approval when projects overlap or parallel existing communications infrastructure.

*Action 3C-1.1 : Lease existing bandwidth, dark fiber, or conduit space from California Broadband Cooperative when network routes parallel Digital 395 infrastructure.*

*Action 3C-1.2 : Refer to County database of existing communications infrastructure when evaluating projects, and prior to permitting.*

## **X.060 : Broadband Access, Adoption, & Application**

**Goal #4** : Work with providers to extend service to as many residents and businesses as possible. Find ways to utilize technology to improve public safety, quality of life, and economic stability of the region as a whole, while improving government accountability and transparency.

**Objective 4A** : Leverage Digital 395 and other broadband and communications resources to improve public safety.

Policy 4A-1 : Look for opportunities to improve communications systems for emergency services personnel, and the general public, in order to expedite response and improve emergency services.

*Action 4A-1.1 : Implement an Emergency Services Network using Digital 395 that connects the satellite facilities of emergency services personnel within Mono County, as well as surrounding jurisdictions with the intent of improving the exchange of information between all parties.*

*Action 4A-1.2 : Utilize the Emergency Services Network to improve Enhanced 911 services by coordinating information shared between dispatch and responders.*

**Policy 4A-2** : Improve cellular coverage area and establish redundant communications in communities.

*Action 4A-2.1 : Evaluate provider's coverage area and perform shadow/gap analyses to determine areas along key transportation corridors and community areas without cellular coverage.*

*Action 4A-2.2 : Work with Joint Communications Planning Committee and neighboring land managers to pre-select and approve sites for future use in locating cell towers to improve coverage in above identified areas.*

**Objective 4B** : Focus efforts on economic development as it relates to or relies on improved broadband and accessibility.

**Policy 4B-1** : Develop an economic development strategy for Mono County with regard to broadband.

*Action 4B-1.1 : Develop information and products including marketing collateral, white papers, case studies, and other relevant materials that can assist with the promotion of technology focused business in Mono County.*

*Action 4B-1.2 : Develop a strategic outreach and marketing plan utilizing the developed materials and targeting technology focused businesses.*

*Action 4B-1.3 : Promote telecommuting as a viable method allowing visitors to stay in the region longer and work remotely, and attract new permanent residents to relocate to the area and work from Mono County.*

*Action 4B-1.4 : Promote workforce development and educational opportunities to train local residents and stakeholders about benefits and uses of technology, focused on the expansion of existing business and development of new business ventures.*

**Policy 4B-2** : Perform a business opportunity analysis study.

*Action 4B-2.1 : Evaluate locations in the County that would be viable for various types and sizes of new technology businesses.*

*Action 4B-2.2 : Evaluate issues, opportunities, and constraints pertaining to business development in various locations of the County.*

*Action 4B-2.3 : Consider changes to policies that may hinder or otherwise complicate development of technology or green business development, including waiving of permit or licensing fees.*

**Objective 4C :** Improve accessibility to broadband for personal consumption within community areas at a level of service and price comparable to urban centers.

Policy 4C-1 : Establish free WiFi in public spaces including County buildings, parks, community centers, and in commercial corridors in community areas.

Action 4C-1.1 : *Provide free WiFi for public use in County offices and facilities.*

Action 4C-1.2 : *Work with service providers to establish free WiFi in commercial corridors and other public areas to support and promote local businesses.*

Action 4C-1.3 : *Limit speeds on public WiFi networks so as not to compete with residential or business connections offered by local service providers.*

Policy 4C-2 : Support programs and initiatives that improve broadband adoption and digital literacy.

Action 4C-2.1 : *Work with regional broadband consortia, state and national initiatives, and local service providers to offer discounted Internet to low income populations.*

**Objective 4D :** Utilize Digital 395 and technology as a whole to improve government accountability and accessibility.

Policy 4D-1 : Leverage existing and implement new technology to utilize broadband to improve efficiency and avoid or mitigate any significant environmental and fiscal impacts.

Action 4D-1.1 : *Budget for, install, and make available video conferencing equipment at County locations, such as community centers, libraries, and satellite offices.*

Action 4D-1.2 : *Promote use of video conferencing and virtual meetings as a means for trip reduction between County offices, and to non-County locations.*

Action 4D-1.3 : *Utilize mobile data terminals or other similar computing devices to provide service to customers in the field for applicable jobs and tasks.*

Action 4D-1.4 : *Explore and utilize paperless approaches for meetings, public information, and publication of reports, etc.*

Action 4D-1.5 : *Develop policies and guidelines that allow for certain County staff the ability to work remotely or telecommute when appropriate.*

Policy 4D-2 : Improve government accessibility through the adoption and implementation of technology.

*Action 4D-2.1 : Utilize the Internet, including websites, emails, and other similar communication vehicles to disseminate information to constituents and the general public.*

*Action 4D-2.2 : Provide access to public meetings via the Internet, "Public, Education, and Government (PEG) Access Channels", or other similar communication vehicles.*

**Policy 4D-3** : Leverage and support the California Broadband Cooperative, Eastern Sierra Connect Regional Broadband Consortium, and other similar not-for-profit broadband organizations to help achieve County goals and objectives.

*Action 4D-3.1 : Maintain a County seat on the Eastern Sierra Connect Regional Broadband Consortium and maintain the County's interest in regional broadband development and adoption programs.*

*Action 4D-3.2 : Appoint a non-elected representative to the Board of Directors for the California Broadband Cooperative.*

**X.070 : Additional Considerations/Topics/Sections:**

- Seek out grants and other funding opportunities related to broadband adoption and deployment
- Consider the development of policies targeted at raising revenue to support future communications infrastructure development.

<sup>1</sup> California Advanced Services Fund is a division of the California Public Utilities Commission (CPUC) and is responsible for increasing broadband adoption in hard to reach areas of California. More information at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/CASF/index.htm>.