

**IN A SPECIAL MEETING OF THE WHITE PINE COUNTY COMMISSION HELD ON
SEPTEMBER 2, 2020 IN THE COUNTY LIBRARY CONFERENCE ROOM IN ELY, NEVADA**

The Following Were Present:

County Commission

Richard Howe, Chairman
Travis Godon, Vice-Chairman
Ian Bullis, Commissioner
Shane Bybee, Commissioner
Laurie L. Carson, Commissioner
Nichole Baldwin, Clerk of the Board
Susan Lujan, Deputy Clerk

County Officials

Mike Johnson, IT Specialist
Elizabeth Frances, Finance Director
Mike Wheable, District Attorney
Bill Calderwood, Public Works Director
Martin Troutt, Road Supervisor
Scott Henriod, WPC Sheriff

Also Present

George Chachas, George Town Media
Jared Bybee, BLM
Robbie McAboy, BLM
James Franklin, Western Oil/Gold
O'Neal Scott, Western Oil/Gold
Geri Wopschall (Zoom)
Jeffrey Kinder (Zoom)
M. K. (Zoom)
Cody Coombs (Zoom)
Kelly McGowan, Sagebrush Ecosystem
Program

Chairman Richard Howe called the meeting to order at 8:01 a.m. Commissioner Laurie Carson led the Pledge of Allegiance.

MOMENT OF SILENCE/SILENT INVOCATION

This was duly observed.

PUBLIC COMMENT

Mr. George Chachas felt the agenda items 1) and 2) on today's agenda should be switched; the companies have had plenty of time to make things right. He noted the Board is making allowances for others, but is mistreating him. He felt it was time for the Board to do something about this road situation. He then noted the masks and social distancing, citing Commissioner Ian Bullis as not wearing his mask during meetings; he felt the oaths taken by the Commission were to enforce and abide by all the laws, and they should do their jobs or resign. He noted the biggest problem is the example the Board sets when they set up rules and regulations. He also can't see the County spending thousands of dollars for a new Public Health Officer when the previous PHO was just paid "peanuts." He charged selective enforcement by the RPC for splitting 1 acre out of 3.8 acres; that's going against regulations. He wants to be put on the agenda for that, and advised the Board he's already appealing the RPC decision. His last item was the Heritage Park, for SNPLMA's Round 18

project; the proposed location is not supposed to be next to a truck stop (Love's). Time was called.

District Attorney Mike Wheable was asked if the second agenda item regarding the "satisfactory arrangement" could be done first, since the BLM representative isn't present. He agreed; this was done.

DISCUSSION/FOR POSSIBLE ACTION/APPROVAL TO SEND A LETTER TO THE BLM STATING THAT WHITE PINE COUNTY HAS NO OBJECTIONS TO LETTING WESTERN OIL RESUME DRILLING OPERATIONS

This agenda item will be taken after the one just below has been discussed.

DISCUSSION/FOR POSSIBLE ACTION/APPROVAL OF "SATISFACTORY ARRANGEMENT" WITH WESTERN OIL AND WESTERN GOLD FOR ROAD MAINTENANCE OF COUNTY ROAD 1177 CONTINGENT UPON OBTAINING A BLM APPROVED SUFFICIENT BOND FOR CR 1177 WITHIN 30 DAYS

District Attorney Mike Wheable advised that Mr. James Franklin, of Western Oil, had presented a draft agreement which he had provided to Public Works Director Bill Calderwood; he asked Director Calderwood to comment on that draft. This was done; Director Calderwood had requested another draft with changes pertaining to the Road Supervisor, who requires an agreement be done, while the NRS simply states a "satisfactory arrangement" would be acceptable. Director Calderwood had sent an email to Mr. Franklin regarding this, but has not heard a response to date. He also advised that a 500' test of "Gorilla Snot" was done; he's not very confident that it would work, but they did do that. Currently they're waiting for the BLM's permission to do test pits for a gravel source. Director Calderwood is working with the BLM's Alicia Hankins on that. The water wells, he continued, are "ready to roll" and he will so advise Mr. Franklin. During the discussion, Chairman Richard Howe felt we could give Mr. Franklin one more opportunity to come here, either in person or be text; otherwise, we need to move forward. D.A. Wheable felt a simple agreement is what we're working on with Western Oil; the bonding within 30 days for the BLM is needed but just this assurance would give them extra time and make it simple. All Mr. Franklin needs to do at this point, it was noted, is to incorporate them into a draft agreement. The Board was advised that Mr. Franklin is en route to today's meeting. Chairman Howe added that he's contacted Mr. Jared Bybee, of the BLM, who is currently on Zoom.

Director Calderwood updated Mr. Franklin when he arrived and Ms. O'Neal Scott. WPC Road Supervisor Martin Troutt had reviewed the draft agreement, and it was confirmed everyone is waiting for the BLM to allow doing test pits for a gravel source. Director Calderwood noted that the next step is for Western Oil/Western Gold to work out the costs with Basin Engineering and applications to the State. He added a temporary permit application, with a permanent permit application to follow, was recommended by Engineer B.J. Almberg, of Basin Engineering. The cost for engineering services with respect to the water rights was quoted as roughly \$3,000. Mr. Franklin advised that amount wouldn't be a problem. District Attorney Mike Wheable advised that this latest draft agreement has incorporated the recommendation from Director Calderwood, which he

read into the record. Mr. Franklin was asked to provide an update on the bonding; he advised that he's been working with the BLM on this and is awaiting the return of the person who has been doing this, as they are out of the office. He noted \$105,000 was bonded with the BLM and he will find out how much additional funds would be needed. He added that 800' of road was tested with Soiltec, with good results, and they plan to continue treating the road with that. There was some discussion regarding the different treatments for the road. The road should be covered completely from the access road to Highway 50 (Road 1177). D.A. Wheable pointed out that the BLM requires a separate road bond for Road 1177, and the company did obtain that. Mr. Franklin is currently awaiting figures from the BLM regarding the exploratory bond, which would be an additional amount. Ms. Scott provided the Board with an explanation of the Durasoil product, which combines dust abatement plus compaction, and lasts up to 2 years. She noted the entire application looks great, and she's hopeful to see how it performs. She added that it remains soft and you can drive on it. She's also in contact with a BLM representative regarding this.

D.A. Wheable summarized that Road 1177 is contingent upon the Minerals Exploration Bond that White Pine County wants to have in place with the BLM; this is to be done within 30 days, as stipulated in the agreement. If it can't be obtained within that timeframe, the agreement is automatically revoked, null, and void. If the bond is obtained within that time, then this Board can approve the agreement. While awaiting the arrival of BLM's Jared Bybee, who's on the way to the meeting, Finance Director Elizabeth Frances explained that an account is already established in the budget for a road bond and similar items.

Mr. Jared Bybee, BLM, arrived and explained that it's tougher for Western Oil to bond on that road than it is for Western Gold, because Road 1177 is already listed as part of Western Gold's plan Mining Notice. A Minerals Exploration Bond could be done but a plan of exploration is required to cover the additional disturbance, as well as a restoration plan. Those things go beyond the initial Mining Notice, he noted. The BLM will determine if the bond covers what they are proposing to do, in this case, to cover the additional disturbance; the goal is to return the disturbance as close to the pre-existing condition of the area as possible. During the discussion, Mr. Bybee felt the bonding could be determined and turned in once the plan of exploration/restoration has been accepted. D.A. Wheable noted that the County is just wanting to ensure we have something in place, i.e., the bond. In reply to a query from Chairman Howe, Mr. Bybee noted some administrative remedies must be done by the companies. Conformance with Federal, State and local laws and Ordinances must be met; these are over and above the County's portion that must be adhered to. Commissioner Travis Godon asked the process for the County to obtain the bond; Mr. Bybee advised that would depend on how the County decides to move forward, and who they would want to fix the road. If Western Oil/Gold will be the 3rd party to take it on, it would be bonded to the BLM, not the County. White Pine County would need to state that the bond would cover the County's needs, and that's a decision only the County could make. Therefore, if the County decides to request the funds, we would need to hire a Road Contractor to fix the Road, and the County would pay for that. D.A. Wheable clarified that the bond is actually a lever to get the permittee "to clean up their mess so they can get their monies back." He added that it wouldn't really be used by us to hire a contractor to fix anything. However, per Mr. Bybee, the BLM would still require a Minerals Exploration Plan

from Western Gold. Plus, the County would be required to return the right-of-way in the same condition in which we leased it.

At 9:02 a.m., the County Commission/Road Commission temporarily recessed in order to hold a Closed Litigation session by request of the District Attorney. Chairman Richard Howe entertained a motion to close the regular Commission meeting. Commissioner Ian Bullis made the motion; Commissioner Travis Godon seconded. Motion carried.

At 9:15 a.m., the Closed Litigation session adjourned and the regular Commission meeting was reconvened. Commissioner Travis Godon reported that they had discussed striking the paragraph in the agreement pertaining to bonding requirements with the BLM and replace it with simply requiring a cash bond within 30 days; the amount of \$500,000 had been suggested. Once that was obtained, then a letter would be sent to the BLM advising them the County had no objections to allowing Western Oil to resume drilling operations. (This was clarified as the first agenda item above.) District Attorney Mike Wheable advised this would save Western Gold monies as the County would be taking care of the gravel/water permitting. The letter could also state that the local laws and conditions have been met as well. With respect to the bonding, the County could charge against it and the remainder would go back to Western Gold; however, the funds would need to be tracked. D.A. Wheable added that "as soon as the money is in the bank, we will have our assurances."

Chairman Richard Howe entertained a motion to set a dollar amount for the cash bond, which would be put into the WPC Treasurer's account if it is deemed a satisfactory amount. D.A. Wheable clarified that we want to be realistic and charge what it would cost our Road Dept. to fix it. Commissioner Travis Godon made a motion that in the Road Agreement we would strike the paragraph regarding obtaining bonding from the BLM and add that Western Oil/Gold would provide a cash bond of \$500,000 within 30 days of full execution of the agreement. Commissioner Ian Bullis seconded. Commissioner Shane Bybee wished to clarify that not only the restoration of the road but also the 2 gravel pits and water must be in place prior to the return of the bond. Commissioner Godon amended his motion to include that statement; Commissioner Bullis amended his second. Amended motion carried unanimously.

At this point, Mr. James Franklin came forward and Commissioner Travis Godon restated that the letter to the BLM will be sent once the County receives the money. At that point we will notify the BLM of the steps that were taken. Mr. Franklin, however, noted that Western Oil is not in a position to post the bond today; the BLM was in control of the road, which is why they went the direction they did. He continued that they have investors and they are also waiting; if we can't agree somehow to allow the rig to continue to drill, he won't have the investors behind him. He can't agree to something they aren't sure they can fulfill, obtaining \$1/2 million dollars in 30 days, UNLESS they can continue to drill. Chairman Richard Howe noted this really must be put into place; meeting after meeting this Board has stepped forward with this, but without that commitment, we can't go any further with this project. District Attorney Mike Wheable clarified the money isn't for the

County resources; it would be placed in a special, returnable account once everything is in place. While we're looking for a cash bond here, he suggested Mr. Franklin try to persuade this Board to send the letter out so the company CAN continue to drill. Mr. Franklin advised that once they can continue drilling, they would be able to obtain the cash bond. In reply to a query from the Board, Mr. Franklin advised the best he could do today would be to write a \$100,000 check. During the discussion he stated he's committed to drilling this well for the County, and that it would prove to be a significant project for the County and for the country as well, if they could get this well producing.

DISCUSSION/FOR POSSIBLE ACTION/APPROVAL TO SEND A LETTER TO THE BLM STATING THAT WHITE PINE COUNTY HAS NO OBJECTIONS TO LETTING WESTERN OIL RESUME DRILLING OPERATIONS

Commissioner Travis Godon made a motion that when Mr. Franklin has provided the County \$100,000 and the bond is cleared, there will still be 30 days to have the full \$500,000 in place; we would have to revisit this for the remaining \$400,000. District Attorney Mike Wheable added that an addendum to the motion should be that the letter to the BLM would go out stating it is a satisfactory arrangement for our roads. Commissioner Laurie Carson seconded the motion with the addendum per legal counsel. D.A. Wheable clarified that the \$500,000 total bond amount is stated as such in the Road Agreement. As to any other outstanding issues, Mr. Franklin felt that would be that portion of the Lincoln Highway that was severely damaged. As he understands it, ENERGEX will be meeting with the Attorney General and will be getting back with Mr. Franklin by Friday regarding this. It was pointed out that the cash bond would be returned when the roads are fixed; this has yet to be voted on by the Board.

Mr. Kelly McGowan, of the Sagebrush Ecosystem Program, had some suggestions; he brought up the example of challenging issues such as who is responsible for sage grouse mitigation, due to disturbance along several of the roads out there. Until we can determine who is culpable for that damage and mitigation is necessary, they would NOT be in compliance with the State regulations. He didn't think the Attorney General would have an answer until next week. He emphasized that even it's just to determine who is responsible prior to moving any more dirt, the companies involved are not in compliance with State regulations until that mitigation is in place.

D.A. Wheable felt we're fine to proceed; he will "get (Mr. Franklin) in compliance with us so he can clear the way to fight the other battles." Commissioner Travis Godon wants to see an ongoing agenda item for updates on all this. Commissioner Shane Bybee had a concern that "we might not get the other \$400,000 while we might incur more damage." Public Works Director Bill Calderwood commented on that, noting that from the drill site back to the north, he didn't feel there would be a problem "as long as they stay within the existing footprint." Road 1204 is closed, so there's no access there. He also felt that once the money is in the bank the Road Dept. could start working on the second half of Road 1177, since it's closed. He was hesitant to do anything from U.S. 50 to the drill site, though. D.A. Wheable asked Mr. Franklin if he would be willing for the Road Dept. to do the maintenance and charge the labor and materials against the bond; Mr. Franklin acquiesced. Some language will be modified in the agreement to reflect this, and it will be sent along to Mr. Franklin. Chairman Richard Howe read the text title of this agenda item into the record

and reiterated that Commissioner Travis Godon had made the motion; Commissioner Laurie Carson had seconded. Motion carried unanimously.

DISCUSSION/FOR POSSIBLE ACTION/APPROVAL OF RESOLUTION 2020-48, A RESOLUTION OF THE WHITE PINE COUNTY BOARD OF COUNTY COMMISSIONERS DECLARING ITS INTENT PURSUANT TO NRS 405.010, TO IMMEDIATELY ORDER THE CLOSURE OF COUNTY ROAD 1177, FROM ITS INCEPTION AT HIGHWAY 50, CONTINUING SOUTH UNTIL ITS INTERSECTION WITH COUNTY ROAD 1204, AND TO ORDER THE IMMEDIATE CLOSURE OF THE ENTIRETY OF COUNTY ROAD 1204, TO PREVENT FURTHER CATASTROPHIC ENVIRONMENTAL AND INFRASTRUCTURE DAMAGE TO THOSE COUNTY ROADS DUE TO THE DRY CONDITIONS AND HEAVY MACHINERY TRAFFIC; AS WELL AS PROVIDE NOTICE TO THE PUBLIC OF THE CLOSURE, PENALTIES, FINES, AND THE POTENTIAL LIABILITY FOR DEFIANCE OF THIS ORDER AND; TO DIRECT THE COUNTY ROAD DEPARTMENT TO PLACE BARRIERS, SIGNAGE, AND COPIES OF THIS ORDER AND RESOLUTION AT ACCESS POINT TO THIS SECTION OF COUNTY ROAD

District Attorney Mike Wheable advised a motion to table this Resolution would be in order, as it is now a moot point. Commissioner Ian Bullis made a motion to table Resolution 2020-48 to close County Road 1177 as advised by legal counsel. Commissioner Travis Godon seconded. Motion carried.

PUBLIC COMMENT

Ms. Robbie McAvoy, new BLM District Manager, was welcomed by the Board. She advised she's just here today to listen to the discussion; she invited the Board to reach out to either herself or Mr. Jared Bybee with respect to these issues being discussed today. Commissioner Laurie Carson commented she's happy that we finally have a District Manager here in White Pine County.

WPC Clerk Nichole Baldwin was requested by the Board to keep an ongoing agenda item pertaining to Western Oil/Gold updates.

Mr. George Chachas thanked Commissioner Laurie Carson for asking the Road Supervisor to speak up during the discussion; he reiterated that the microphone needs a gooseneck, and not all the speakers are working. He continued that while the new parking lot at the Bristlecone Convention Center is completed, there's no ADA walkway and it's hazardous. A light located on the corner of 7th and Lyons Avenue is on private property, and that can't be allowed. He urged the Commission to "check the bond on these people." He also noted that while he is willing to pay for a permit, the Building Official won't issue him one. A newspaper that prints what is sent to them should also be solicited; he paid for an ad in April, and it still hasn't been printed. He charged they're being selected about what to print or not to print; they "need to go," and the Commission needs to address that.

Finance Director Elizabeth Frances advised that our small business assistance program will be open September 8th for applications; they will be advertising in the newspaper and on the website this Friday to advise people of what they would need to do to apply. Commissioner Shane Bybee thanked Director Frances for her extraordinary work in getting that program into place!

ADJOURNMENT

At 9:43 a.m., Commissioner Laurie Carson made a motion to adjourn. Commissioner Shane Bybee seconded. Motion carried.

BOARD OF COUNTY COMMISSIONERS

**WHITE PINE COUNTY
STATE OF NEVADA**

BY: 
CHAIRMAN

ATTEST:


WPC CLERK OF THE BOARD