

**IN AN EMERGENCY SPECIAL MEETING OF THE WHITE PINE COUNTY COMMISSION AND ROAD COMMISSION HELD ON JULY 15, 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

Present via Zoom: Doug Powell, Geri Wopschall, Isabell (no last name provided), Jack Erekson, Jill (no last name provided), Kristi Lynch, Lisa Ashby, Mary (no last name provided), Patricia Bute, S. Pierce, Jennifer Lee, Wyatt Cox, Moira Kolada, Pastor Bob Winder

Also Present

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

Kay Lynn McMurray, Ely Times  
B.J. Almberg, Basin Engineering  
Sandy Frutchee, ENERGEX  
James Franklin, Western Gold Manager

\*Commissioner Travis Godon is present this afternoon via Zoom.

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Chairman Richard Howe called the meeting to order at 3:00 p.m. Commissioner Laurie Carson led the Pledge of Allegiance.

**MOMENT OF SILENCE/SILENT INVOCATION**

This was done, with a special moment observed for former Airport Manager Lance Gale.

**PUBLIC COMMENT**

District Attorney Mike Wheable advised that this emergency meeting was called, and the Open Meeting Law for posting wasn't fulfilled due to the nature of the items. He cited extreme environmental impact of a catastrophic nature; because no action has been taken, the devastation has become worse and the costs will be higher in order to resolve the issue. There is a public safety concern regarding the road in question; it must be closed in order to prevent danger to travelers on the road. This came to his attention Monday, and it was evident that we need to figure out how to address the problems and act upon it immediately. He added that "the road is already destroyed."

There was no public comment at this time from Zoom participants.

Ms. O'Neil Scott came forward and explained she and her husband have been partners with Western Oil; they are responsible for the roads. She advised they were in need of assistance because the County hasn't had a budget to fix those roads for some time. She documented meetings that were held regarding the road. Her company is a road repair/building company, and they utilize huge equipment, which was brought in. They've been working 7 days/week and also nights, performing dust abatement and repairing roads. Commissioner Laurie Carson asked how they are affiliated; are they landowners? Ms. Scott replied no, they're with the business. She added that we're working with the Federal, State and County organizations, and they have some solid solutions, "namely gravel and water."

WPC Clerk Nichole Baldwin advised a letter had been received from Ms. Amie Halstead, which she read into the record.

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HALSTEAD-FORSGREN RANCHES INC

208-312-2633  
a.halstead@me.com

July 15, 2020

White Pine County Commissioners

Duckwater Rd #1  
Duckwater NV 89314

Dear Commissioners:

Thank you for the opportunity to voice my concerns about the condition of the County Road 1177 south to the where it meets with County Road 1204, and it's recent closure.

As a private land owner in the area as well as a permit holder of BLM and USFS grazing permits in the area the road is used frequently in our operation for access to these lands. Currently, because of the oil exploration that had started the road is almost impassible. Due to the fact this is main road that we use for our operation, we are concerned about it's current condition, how and when it will be repaired, and who will bear the responsibility of the repairs.

It is our hopes the White Pine County Commissioners will set some guidelines for Western Oil Exploration to repair the road properly and in a timely manner. We would also hope that the oil exploration remains on hold until the road is repaired, and some guidelines including weight restrictions on equipment being used by Western Oil Exploration are set, along with a future road construction and maintenance plan being developed between White Pine County Road Department and Western Oil Exploration.

Sincerely,



Amie Halstead

Halstead-Forsgren Ranches INC

## DISCUSSION ONLY REGARDING DAMAGE CAUSED TO COUNTY ROAD #1177

District Attorney Mike Wheable asked Public Works Director Bill Calderwood to provide an overview of how we got to where we are today with this road, and what the issues are. Director Calderwood and Road Dept. Supervisor Martin Troutt proceeded to show an easel map and indicated Road #1177, and where it intersects with Road #1204. It was explained this is a non-standard road, which doesn't receive gas tax monies; a timeline was created for the road, showing its history up to today's situation. Commissioner Laurie Carson asked if there was a Road Agreement in place, and wasn't that normal procedure? Director Calderwood noted they are fairly common; for example, a rancher might request work be done on a non-standard road, and agreements are done with both sides agreeing to accomplish something. Supervisor Troutt explained that normally no work is done on a non-standard road, unless there's an emergency, like a washout, which would make the road impassable, OR if the Road Commission approved the work. He added that in 20 years that road has never been maintained, to his knowledge. Director Calderwood read the timeline, noting that on May 28<sup>th</sup> of this year correspondence began with Larry Ortega regarding a Road Maintenance Agreement; initially, they were looking to fill in potholes and do minimum maintenance on that road. On June 9<sup>th</sup> there was a concern about big trucks coming in and high-centering on the road; they asked about doing something to fix that problem, and on June 10<sup>th</sup> pictures were taken of the road. It was dusty, he reported, but in relatively good condition at that time. Supervisor Troutt met with Mr. Larry Ortega and noted some slight damage on the road; Western Oil was requested to stay within 40' of the right-of-way. A complaint from Newark Valley resident David Little was received on June 9<sup>th</sup>, and on July 22<sup>nd</sup> Supervisor Troutt visited the area, both roads #1177 and #1205. Due to heavy traffic, damage was evident from heavy equipment hauling gravel, mostly to the southern area. At that time Supervisor Troutt was told they had permission from the USDA-Forest Service to do that. Currently, Director Calderwood continued, the entire road from the highway in is basically destroyed. They've never had authorization to place gravel on any County roads, and never submitted a plan for it; they were graveling roads without permission. While a plan was submitted, he continued, it didn't address the continuing damage for roads #1204 and WP-5. They also requested to use the County gravel pit, but Director Calderwood advised it needs to be permitted. He did note the County did allow them to do a limited scope of work. In reply to a query from D.A. Wheable, Director Calderwood advised that the plan submitted did include getting water to fix the road. So the issue has become the way the road was destroyed; heavy equipment + dry conditions = the coarse material was pushed out and all that was left was the "fines," which is an impassable fine dust. D.A. Wheable noted that Energex is attempting to replace the dust, but the Feds are saying they can't; White Pine County doesn't have the right-of-way. The repairs that could be done, would depend upon obtaining water from the County; and the taxpayers would bear the brunt of those costs. He continued that we have to ensure we're working with the companies so there wouldn't be a bigger problem that the taxpayers would face. He concluded that the maintenance plan was "grossly insufficient as it put the burden on White Pine County to solve the problem." Director Calderwood advised that Mr. Larry Ortega had stated they had a well, and we could use that well for road maintenance; so we met with the BLM. When they're done with the exploration portion of the permit,

they must rehab the drill site. D.A. Wheable advised that they're also trying to contract with the Forest Service regarding some gravel, but there's 10 miles of road, and that would require a lot more gravel than what is currently available. Therefore, other roads are now also being impacted. He continued that we need to know exactly who we're dealing with, who is accountable, who the partners involved actually are; further, we're at criminal sanctions now, and arrests can be made as there is felonious activity happening. The road was fine with regular use for 20 years, but now it's impassable. Is the taxpayer liable for that, he asked? An insufficient plan and infrastructure is one of the core reasons this happened; action must be taken to prevent further damage to that road. The current price tag is anywhere from \$1.5-3.5 million to repair the roads. Up to May 28<sup>th</sup> it was serviceable, but now it isn't working, and neither are their plans. He stated that they will have to put more of their resources into road repairs first; as legal counsel for White Pine County, his concern is for the ranchers and other users of the roads; that's why this meeting is being held today. He added that Western Oil can't do anything without partnering with the County. We must see actual work being done that can restore the road and protect it; he doesn't trust any communications with the pertinent parties right now. Also, this was done on BLM property; they had to get permits, and only by doing so and utilizing County roads could they continue their enterprise. But within just 12 days the road went from passable to catastrophic. He recalled Ordinances with respect to projects having environmental impacts, and therefore requiring permits; but no such permit was applied for, he noted.

Commissioner Travis Godon advised he's willing to work with Western Oil; but if they don't hit oil and they pull out, the condition of the roads when they leave is a real concern. We need some assurance that things will be fixed and that there will be better communication. Director Calderwood advised that Mr. Sandy Frutchee and his crew have been working on the road trying to maintain it, but from his perspective they aren't gaining any ground; so far there are 4 different County roads being impacted by this. They're hauling from the next valley over, he noted. Supervisor Troutt advised they're hauling from Strawberry to a frack tank somewhere, but they can't haul enough water. Chairman Richard Howe asked if a private contractor could be hired to supply water; Director Caldewood verified that was a possibility. D.A. Wheable noted that this Board will have to make a decision with a right solution; trucking water for 10 miles of road is definitely a problem. There followed a brief discussion with Director Calderwood explaining a worst case scenario; the road now has potholes 5' deep; a truck got stuck recently and had to be pulled out. The company had sent him another proposal but he hasn't responded because it was contingent upon the Road Dept. providing the water! There was some discussion about the BLM permitting maintenance on roads; the permit is for 1 use, it can't be used indefinitely. This is pertaining to the right-of-way over the BLM land; D.A. Wheable commented that once the BLM sees this isn't just a County problem, and the dust will end up on BLM property, when they understand this could impact their situation, they might consider loosening up the permit restrictions to get things done. He added that the County wants to see economic development, yet we do have to protect peoples' property. Commissioner Ian Bullis summed up that we need to find out the cost of restoring this road and setting it up so nothing like this would happen in the future; make it profitable, get things fixed, and keep moving forward with the project. Mr. Sandy Frutchee, of Energex,

explained their company does services for Western Gold; they do road maintenance, trucking, pad development for oil pads, etc. He met with Director Calderwood and Supervisor Troutt several times to discuss the road problems. He's in a family business, and has done road construction for most of his life. He's advised Western Gold several times what needed to be done, and they were also trying to do due diligence. He had requested Western Gold to supply the Road Department with a business plan for the road construction, and he took Supervisor Troutt out there for a tour. He advised that they tried to take material from the Forest Service and put it on the road to stabilize it and make it strong; Director Calderwood verified this. He also advised them it would cost Western Gold over \$3.50 million to fix the road properly. Mr. Frutchee told the Board he's here to do whatever Western Gold tells him to do, he will finish it to the end; he has good experience and can see both sides of the County and Western Gold. He confirmed that they do have an oil well on the BLM property. Chairman Richard Howe asked if we should halt the project until we know what Western Gold's investment will be; D.A. Wheable advised that we can't halt the project; instead, if we can discuss a plan that works and is enforceable, that would be a goal. Chairman Howe asked if we could get in writing their commitment to get this job done and include some repairs; Commissioner Travis Godon noted that if the company could provide it, they could have Energex contract to fix the road and get some documentation from the bank to assure us they would have the funds to do so. Chairman Howe agreed with Commissioner Godon.

Western Gold Manager James Franklin addressed the Board; he drove on Road #1177 yesterday and then again 10 days ago; he was hearing concerns for safety, damage, and other major problems. Yesterday he was quite pleased with the road, as there have been dramatic improvements made; it's from 60-70% complete. While there are high walls due to the fine "bug dust" it's greatly improved over what it was 10 days ago. The stickler, though, is the need for water. While Western Gold has identified where it's available, they have no rights to it. They were bringing water in from Eureka to fulfill the need to mitigate the dust on these roads, and also to fill their need to drill. They do have investors, and have been here for most of the past 10 years; they've identified this drilling site to be valuable. They've even spent \$750,000+ on the roads and will continue to improve them; they must do so in order to get their equipment in and out of the area. He told the Board the company is a steward of the environment, and are doing all they can to mitigate this issue. They've also formulated a plan to drill a horizontal hole into a body of water, and while they can't access it through NEPA they might be able to reach that body of water through underground drilling. He maintained that water and gravel are the only issues facing us, and anyone else who goes out to repair those roads.

District Attorney Mike Wheable felt perhaps we could do restrictions rather than full closures; we should see if some actual improvements are going on out there that would justify us not going forward with the closures. He noted that if we see satisfactory gains with those improvements, we could wait prior to doing closures. Manager Franklin noted that they're close to a verbal agreement in order to obtain the water, but are having some trouble reaching the pertinent parties; water has been the "number one problem."

D.A. Wheable noted discussion could continue with the agenda item following the next one, and skip the one pertaining to the resolution at this point. Chairman Richard Howe opened that agenda item per legal counsel.

DISCUSSION/FOR POSSIBLE ACTION/APPROVAL TO ADOPT RESOLUTION 2020-48 PURSUANT TO NRS 405.010, TO IMMEDIATELY ORDER THE CLOSURE OF THAT SECTION OF COUNTY ROAD #1177 (FROM ITS INCEPTION AT HIGHWAY 50, CONTINUING SOUTH UNTIL ITS INTERSECTION WITH COUNTY ROAD 1204) TO PREVENT FURTHER CATASTROPHIC ENVIRONMENTAL AND INFRASTRUCTURE DAMAGE TO THAT SECTION OF ROADWAY 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 POINTS TO THIS SECTION OF COUNTY ROAD

Commissioner Laurie Carson made a motion to table Resolution 2020-48 and carry it to the July 22<sup>nd</sup> Commission meeting, as discussed. Commissioner Ian Bullis seconded. Motion carried.

DISCUSSION OF ADDITIONAL REMEDIES AND/OR PENALTIES WHICH MAY BE SOUGHT AGAINST THOSE PARTIES WHO HAVE INFLICTED DAMAGE UPON COUNTY ROAD #1177

Commissioner Travis Godon concurred with Chairman Richard Howe that if what Manager Franklin says is true and progress is indeed being made, we're headed in the right direction. If Public Works Director Bill Calderwood can verify this, and we can achieve better communication, he would be agreeable to put this on the July 22<sup>nd</sup> meeting agenda for an update. District Attorney Mike Wheable would like to go on good faith that there will be a good solution to this for all parties involved. He suggested the Road Dept. inspect the road and take pictures, and work up plans for the really sore spots and then report back to the Commission at that July 22<sup>nd</sup> meeting. He is looking for a sincere, documented plan that the Road Dept. can sign off on, with finances available for a contractor to reclaim that road. He's open to suggestions from Western Oil and also the Road Dept. on how to verify these things, via a bond or similar means; there should be a pot of money dedicated to the roads, and he feels we'd be going in the right direction. Commissioner Laurie Carson added there should also be something in there to assure us no further damage would be done to the roads. Commissioner Ian Bullis noted that if the road is in better condition than when it started, that's a goal. Manager Franklin advised that they will be looking to correct these roads because they do have multiple interests in this area. D.A. Wheable advised that if the County doesn't feel they're being misled—and he felt this isn't the case—and the County does have the authority to prosecute, to fine, etc., he advised that shouldn't be a part of this discussion. As long as the road is repaired and it doesn't put the burden back on the County, that would be a good thing. He advised they have a week to see what kind of progress can be made, but it will be on the agenda for the July 22<sup>nd</sup> Commission meeting. He noted we have to be serious about protecting the taxpayers' property. Manager Franklin agreed with this, and as they also have to have access for their own survivorship they must do this. D.A. Wheable recommended tabling the agenda item above pertaining to the resolution, place it on the agenda for July 22<sup>nd</sup>, see if they can come up with a workable plan and then we could revisit the resolution to close the road. It was confirmed during the ensuing discussion that Western Gold has 2 Federal oil/gas permits to drill, plus 3 water permits to drill as well; they need to have the legal ability to drill those wells. Manager

Franklin stated that Western Gold would take 100% responsibility to drill those wells, "and we will give them to you." Further, there's no liability that they will incur, or want to incur. Director Calderwood will work with Mr. Fruitee at Energex. Also, if any other roads will be utilized in these efforts, they should be documented as possible roads to be impacted as well. D.A. Wheable noted the road agreement plan should involve all 3 roads: #1177, #1204, and WP-5. So Chairman Richard Howe moved to the second agenda item pertaining to the resolution, as discussed.

**PUBLIC COMMENT**

There was none.

**ADIJOURNMENT**

At 4:13 p.m., Chairman Richard Howe entertained a motion to adjourn. Commissioner Ian Bullis made the motion; Commissioner Travis Godon seconded. Motion carried.

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF WHITE PINE  
STATE OF NEVADA

BY: Richard Howe  
CHAIRMAN

ATTEST:

W. Calderwood  
WPC CLERK OF THE BOARD