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The Humboldt Sun

Winnemucca, Nev.

Your Source for Community News

VOLUME 41, ISSUE 25

WEEKEND EDITION



COMMUNITY NEWS

Humboldt General Hospital has made some changes recently which officials hope will result, not only in energy savings, but cost savings as well.

Pages 8-12



SPORTS

The Winnemucca Junior High School seventh- and eighth-grade wrestling teams will be looking to defend their Tah-Neva championship this Saturday in Fallon.

Pages 13-16

NEWMONT NOTES

Newmont's Carlin and Midas underground competition teams recently participated in a mini-competition training session that involved bringing in representatives from the Mine Safety and Health Administration.

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Local Weather

Thu 3/25	55/32	
Partly cloudy early followed by mostly cloudy skies and a few showers later.		
Fri 3/26	49/29	
Showers of rain and snow early.		
Sat 3/27	64/35	
Abundant sunshines. Highs in the mid 60s and lows in the mid 30s.		

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Making beautiful music together —



CHELLE FURNARE • Special to the Sun

The French Ford Middle School sixth grade solo & ensemble was held on March 16 and March 18 in the FFMS band room. Soloists were accompanied by Kathy Graham. Photo above, Melanie Blakemore (left) and Mikayla Green perform "Liza Jane." For more photos from the event, see Page 11.

Conflict counsel agreement back on

By Heather Gula
The Humboldt Sun

WINNEMUCCA — A major factor in the battle to find affordable conflict counsel that stretches back almost three years has come to a conclusion. Union Township Justice of the Peace Gene Wambolt announced during a March 15 Humboldt County Commission meeting that he would once again allow Pershing County Public Defender Steven Cochran to practice law in his courtroom.

Wambolt, who told commissioners Sept. 8, 2009, that he did not feel Cochran was legally qualified to serve in the capacity of conflict counsel, told them last Monday that he had received additional information causing him to reverse that decision.

According to Wambolt, Supreme Court Rule 49.9 — that governs limited practice for certain deputy state public defenders in rural counties — requires an attorney certified by the state bar under limited practice to practice under the supervision of a state public defender. Wambolt interpreted that to mean that Cochran's supervising attorney, J. Rayner Kjeldsen, would need to be present in the courtroom to supervise Cochran.

Wambolt was recently provided with an e-mail between



HEATHER GULA • The Humboldt Sun

Union Township Justice of the Peace Gene Wambolt appeared at the Humboldt County Commission meeting March 15 to explain that he had reversed his previous decision to exclude Pershing County Public Defender Steven Cochran from his courtroom.

Cochran and his attorney, Richard Cornell, which stated that he had three cases in front of him in the Sixth Judicial District Court that may go to trial. If each went to trial it would cause a financial hardship for Pershing County to pay Kjeldsen's fees to attend the proceedings in Humboldt County.

That e-mail was forwarded to Patrice Eichman, director of admissions for the Nevada State Bar Association. Wambolt told commissioners that Eichman's response on Jan. 12 indicated her opinion was that neither the state bar association nor Supreme

Court rule 49.9 requires Kjeldsen to be present in the courtroom during trial. She wrote that the rule requires supervision but does not specify the extent of the supervision and it is her understanding that Kjeldsen should be available to answer questions for Cochran but that could be handled by phone.

"I believe that Mr. Cochran can appear in Justice Court in Union Township," Wambolt said. "I think the State Bar through Patrice Eichman, director of admission, is cognizant of the situation ... I was reading the letter

— See COUNSEL, Page Two —

City councilman Herzog resigns

Board to start interview process for replacement at April 6 meeting

By Jen Anderson
The Humboldt Sun

WINNEMUCCA — The Winnemucca City Council operated as a four-person board during their Tuesday meeting, and will continue to do so in the near future due to the resignation of councilman Patty Herzog.

During the staff/council comments portion of the agenda,

Mayor Di An Putnam read into record a resignation letter from Herzog, effective March 31.

In a later interview Herzog apologized to the community for not finishing her term (her seat is up for reelection this fall) but felt like it was time for her to reprioritize her life by taking some irons out of the fire.

"There is a strong council, a strong staff and a strong mayor and I felt like it was a time to let something go," she said. "Unfortunately I have a tendency to overload myself and I'm trying to pare myself down and refocus my priorities."

City Attorney Kent Maher

told council members that they will be responsible for appointing someone to Herzog's vacant seat for the remainder of her term — a process councilmen hope to start at their next meeting, April 6. A legal notice with more information will be posted in the Sun's March 30 edition.

As for Herzog, she plans to stick around the community and continue her involvement in high school sports and other activities.

"It was a privilege to serve the community and I feel very fortunate that they put their faith in me for as long as they did," she said.

NDEP official: TRASH Act has little bearing on permit

Guthreau says disclosure, reporting already required

By Heather Gula
The Humboldt Sun

WINNEMUCCA — On March 4 Sen. Harry Reid, D-Nev., issued a press release announcing his proposal to block out-of-state trash from crossing Nevada's borders.

"I am a vigorous defender of interstate commerce, but communities must be responsible for their own garbage," Reid said. "Nevada is a beautiful place and should not be treated as a dumping ground for other states."

The draft legislation allows state and local governments to refuse waste shipments from other states and Reid referenced the Jungo proposal as motivation behind the Trash Regulation and State Health Act (TRASH Act).

Among numerous requirements that the act proposes is a regulation that gives governors and/or local officials the ability to refuse out-of-state waste at any landfill if the facility was not in operation by March 15, 2010.

In addition it gives governors and/or local officials the ability to permanently freeze the amount of out-of-state waste received at any landfill regardless of when the facility opened. The act would also allow governors and/or local officials to rescind permits after three instances of unapproved types of waste being found in out-of-state waste shipments.

Jon Summers, spokesman for Senator Reid, later explained that the addition of this regulation is an effort to call current Nevada Gov. Jim Gibbons to action against the Jungo proposal.

"Reid will continue to call on Gov. Gibbons to deny the permit for the Jungo dump using every authority at his disposal," Summers said. "Although he's looking the other way on this, it is within the governor's power to do the right thing here to protect the public's health, water resources and the environment. Reid's legislation is a backup in case that doesn't happen."

In a September 2009 inter-

Reid disappointed in USGS study

By Heather Gula
The Humboldt Sun

WINNEMUCCA — Sen. Harry Reid, D-Nev. is seriously disappointed by the results of the U.S. Geological Survey study he commissioned in September of last year, according to Reid spokesman Jon Summers.

"What the senator had asked the USGS to do was to look at the impact that waste seepage from the proposed dump could have on nearby aquifers and water bodies," Summers explained in a statement issued last week. "The USGS came back with a report, based on decades-old information, that talks mostly about possible surface run-off from the proposed dump. These are different issues."

Tami Vetter, a founding member of Nevadans Against Garbage, said that although not surprised by the outcome

— See STUDY, Page 12 —

view, Reid stated that he felt both local and state government already had the authority to block the proposal. He stated that Humboldt County had absolute authority to stop the proposal by not granting the Conditional Use Permit and urged Gibbons to intervene and, "stop this threat to Nevada's sovereignty and dignity," if the county failed to do so.

Gibbons' spokesman Daniel Burns argued that the hauling of trash over state lines falls under interstate commerce, which is regulated on the federal level.

"The easiest and fastest thing to do ... would be to handle it at a federal level and get California to handle their trash problems," Burns said in a statement on the governor's behalf.

Tami Vetter, a founding member of Nevadans Against Garbage, said she is pleased to see one of the state's most powerful politicians speaking out against the proposal.

"As far as my thoughts on Reid's TRASH Act, I feel great

— See LANDFILL, Page Two —

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June 9th
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September 29th
October 27th
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December 18th



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COUNSEL

(Cont. from Page One)
of the law when I was here last time — 49.9 — but I think with the current information that has been presented by Patrice Eichman that satisfies a number of my concerns.”

Humboldt County Administrator Bill Deist explained that Wambolt's decision will resolve the problems of the conflict counsel agreement and will allow the county to employ Cochran as their conflict counselor, saving considerable money. His recommendation was that no action be taken, leaving the conflict counsel agreement with Pershing County intact.

Commissioner Tom Fransway asked if the action of Wambolt had also helped to resolve the problems between Sixth Judicial District Court Judge Richard Wagner and Humboldt County Public Defender Matt Stermitz and whether the resolution of that issue would negate a need for Cochran's services.

Wambolt advised him that a determination would need to be made by the Nevada Supreme Court regarding Stermitz's expulsion from the judge's courtroom.

Humboldt County District Attorney Russell Smith explained that the county will require Cochran's services regardless of the outcome of that case. “We would still need Mr. Cochran for the conflict counsel appointed at the justice court level and then carrying up to district court, but we may not need him for the conflict in Judge Wagner's courtroom depending on how the Supreme Court comes down on that issue,” Smith said.

Deist then explained that conflict counsel would still be used to cover time conflicts with the attorney or in cases where there were multiple defendants involved in one crime who needed aid.

Fransway indicated that with that being the case he wished to make a motion to stay in the contract. Wambolt explained that

was not necessary and that if the state bar were to make a ruling other than what he had stated — that Cochran could practice — then that would have an effect on the contract so it was best to leave it as is.

No action was taken on the item, leaving the existing contract in place. If either party chooses to dissolve the contract, notice must be given by April 1, 90 days prior to the July 1 deadline.

In June of 2008 the two commissions — Pershing and Humboldt counties — met to discuss separating their offices, making it possible for the independent agencies to act as each other's first tier conflict counsel. After numerous meetings to discuss the arrangement, Humboldt County Commissioners voted unanimously to approve the contract on July 21, 2008. The Pershing County Commission made the same vote shortly after that.

According to the Humboldt County Commissioners, the cost-

saving measure proved unsuccessful in part due to licensing issues with Cochran. On Oct. 6, 2008, Humboldt County Commissioners voted unanimously to sever the agreement. This left Humboldt County with one of two methods to revoke their participation in the agreement: mutually agreed upon separation or a 90-day notice issued by one party prior to July 1.

A letter was drafted Oct. 21 asking Pershing County Commissioners for a mutual separation. The request was denied at that time. On March 16, 2009, the Humboldt County Commission voted unanimously to submit a 90-day termination notice before indicating their intent to sever the agreement effective July 1. The letter was apparently never received by Pershing County.

As a result the agreement was maintained with Humboldt County, indicating they would once again seek dissolution of the contract 90 days before the deadline.

LANDFILL

(Cont. from Page One)
love, and respect for our beautiful state of Nevada,” she said. “I don't want our home to become a dumping ground, and I am happy to see someone in a position of power representing our state take a stand to protect our quality of life.”

In addition to fueling arguments over who holds the power to stop this proposal, the TRASH Act calls for strenuous disclosure and reporting requirements by requiring permit seekers to provide a lengthy list of information 30 days before entering into a state's permitting process.

“If the information is required, it's required,” Vinson Guthreau, public affairs officer for the Nevada Division of Environmental Protection, explained. “Whether we get it 30 days prior to 30 days before we get the application, I don't think it would make a difference. We would need it before the permit was approved regardless, or before a decision was rendered.”

If the TRASH Act passes, information required 30 days prior to entering the application process must include a detailed description of the new facility, including the maximum conceivable tonnage of waste to be received during a single year and over the full-life of the facility. Guthreau explained that this is already required as part of the permitting process. An analysis of groundwater flow rates in the area, a detailed map of the proposed site, including the hydrologic features of the land and a description of the likely environmental controls to be used at the site are also factors already required by NDEP's permitting

process, according to Guthreau. One item in the TRASH Act that is not currently required is a list of violations of federal or state law of which the individual or entity has been charged with or convicted of.

As part of the act, an analysis detailing any expected leachate or other pollution to be generated from the new facility must be supplied along with a model of any of the impacts of leachate or other expected pollution on local water sources over a 100-, 200- and 300-year window.

Guthreau explained that these requirements are dealt with through the NDEP monitoring program right now and the permit is not reliant on modeling.

“If leachate is being leaked from the landfill it is not permitable and the permit would have to be denied,” he explained. “It is designed to be a containment unit — the landfill itself — so if we were to predict in a 300-year window that there would be a leak then it would not be permitted.”

As such, NDEP does not ask for a model to predict things into the future, but they acquire data through the monitoring program and based on that information they make adjustments to the permit.

“Regulators in the state have determined that we need empirical data in order to make decisions. Not just prediction,” he said. “So basically we use the information from the monitoring program to confirm compliance at the landfill site.”

While NDEP does not currently ask for a list of federal, state and local permits that are required there are some permits

— such as a Conditional Use Permit — that are required prior to the state's consideration. In addition, the CUP requires that all permits be obtained prior to construction and/or operation of the facility.

Information on the maximum potential health risks associated with the new site must also be submitted 30 days prior to application if the TRASH Act passes.

“To be honest that is probably the biggest difference between the proposed legislation and what we currently do,” Guthreau explained. “This is basically what is called a maximum health assessment. We don't require it as part of our process; I think that would be more akin to doing some sort of a National Environmental Protection Act analysis, so we don't require that.”

Information on when and how affected local governments and interested members of the public may comment on the proposal is another requirement of Reid's act. However, according to Guthreau, this is already included in the public notice portion of NDEP permitting.

“We wait until our permitting analysis is done and then we do public notice for a draft permit because otherwise we wouldn't have anything to show the public,” he explained. “The public has the last right to weigh in after all of the analysis has been done. We did that with the air permit and it will be done again with the solid waste permit.”

“We also post everything about our solid waste permitting process online. That includes all documents, the permit itself and any analysis that has been done. Everything is posted online so that it is 100 percent transparent and the general public is able, if they want to read this stuff, to access it,” he added.

One of the last requirements of the TRASH Act disclosure and reporting requirement is a list of the out-of-state communities that could provide waste to the landfill.

“We do ask for that in a regional way so again applying this to (the) Junco project, they

informed us that they would be serving customers in northern California and the East Bay areas of California,” Guthreau said.

If they chose to accept material from any other area they would need to make changes to the permit or if there was a significant change, including changes in the type of waste received, they would need to re-permit the facility.

The bottom line, according to Guthreau, is that the TRASH Act does not have a significant impact on the way NDEP permits landfills in the state.

“NDEP will adhere to any state and federal guidelines that are required of us when it comes to permitting a project,” he said. “If there is a new regulation in there that is adopted, or a new federal guideline that says you have to use modeling to predict 300-year outcomes, then we would have to apply 300-year outcomes to the permitting process.”

Recology COO George McGrath stated that it would have tremendous implications for communities throughout the United States that seek to safely dispose of their solid waste. “The legislation would place enormous burdens on numerous communities around our country which just do not have areas that can be dedicated to local waste disposal,” he said. “By severely limiting the ability of communities to dispose of solid waste, the proposed legislation will impact the public health and welfare of people nationwide.”

Further he explained that numerous attempts to limit waste facilities have been defeated in court for that same reason.

“The environmental permitting process that exists in each state, including Nevada, ensures that waste being disposed of in a landfill—no matter what its state of origin—has no adverse effect on the environment,” McGrath said.

Full text of the draft legislation can be accessed at: <http://reid.senate.gov/newsroom/upload/trash-act-draft.pdf>.

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