



**NEVADA LEGISLATURE
LEGISLATIVE COMMISSION'S COMMITTEE TO STUDY
THE USE, MANAGEMENT, AND ALLOCATION OF
WATER RESOURCES**

(S.C.R. 26, FILE NO. 100, *STATUTES OF NEVADA 2005*)

SUMMARY MINUTES AND ACTION REPORT

The seventh meeting and Work Session of the Legislative Commission's Committee to Study the Use, Management, and Allocation of Water Resources (Senate Concurrent Resolution No. 26, File No. 100, *Statutes of Nevada 2005*) was held on June 21, 2006, at 9 a.m. in Room 2135 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's Web site at www.leg.state.nv.us/73rd/Interim. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Dean A. Rhoads, Chair
Senator Mark E. Amodei
Assemblyman Pete J. Goicoechea

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblyman Jerry D. Claborn, Vice Chair
Senator Warren B. Hardy
Senator Dina Titus
Assemblyman Kelvin D. Atkinson
Assemblyman David R. Parks

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Susan E. Scholley, Chief Principal Research Analyst, Research Division, Legislative
Counsel Bureau (LCB)

Kimberly Marsh Guinasso, Senior Principal Deputy Legislative Counsel,
Legal Division, LCB

Matthew G. France, Principal Deputy Legislative Counsel, Legal Division, LCB

Lucinda Benjamin, Senior Research Secretary, Research Division, LCB

OPENING REMARKS

Chairman Rhoads opened the meeting, explained the process of providing testimony, the voting process, and the Work Session procedures.

APPROVAL OF THE “SUMMARY MINUTES AND ACTION REPORT” OF THE MEETING HELD ON MAY 24, 2006, IN LAS VEGAS, NEVADA

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN CLABORN MOVED TO APPROVE THE MINUTES OF THE COMMITTEE’S MEETING HELD ON MAY 24, 2006, IN LAS VEGAS, NEVADA. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

PUBLIC COMMENT

- Chairman Rhoads emphasized the importance of water in a dry state like Nevada and thanked the elected officials, Office of the State Engineer, and members of the public who testified before the Committee during the interim.

WORK SESSION—DISCUSSION AND ACTION ON RECOMMENDATIONS (Please see [Exhibit B.](#))

WORK SESSION DOCUMENT

Water Law and Administration

Recommendation No. 1: Amend the statutes relating to the protest procedures for water rights applications to require that the protest period be reopened for 30 days if an application is not processed within seven years. Further, if a protest is based on impacts to a specific property, amend the statutes to allow successorship of protestant status to successive owners of the property (by sale or inheritance). The burden of notifying the Division of Water Resources, State Department of Conservation and Natural Resources (SDCNR), of a claim of succession and any change of address shall be on the person seeking successor status.

- Tracy Taylor, P.E., State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources (SDCNR), provided information on the cost of applications, hearings, and the notification process used for water rights applications. Mr. Taylor submitted a document titled “State Engineer’s Comments on the S.C.R. 26, June 21, 2006, Work Session Document.” Please see [Exhibit C.](#)

Assemblyman Goicoechea commented that the application process should be concluded within ten years.

- In response to questions from Committee members, Mr. Taylor discussed reasons for the: (1) delay in processing applications; (2) rejection of applications by the Office of the State Engineer; (3) backlog of pending applications, estimated to be between 1,500 to 2,500; and (4) percentage of protested applications. He referred to the *Nevada Revised Statutes* (NRS) that relate to withholding action on water rights applications.

The Committee took no action on Recommendation No. 1.

Recommendation No. 2: Amend statutes to authorize the State Engineer to order any person in violation of the provisions of NRS Chapters 533, 534, 535, 536 and Nevada Administrative Code (NAC) Chapters 534 and 535 to: (a) pay an administrative fine not to exceed \$10,000 per day for each violation; and (b) be liable for any expense incurred by the Division of Water Resources, SDCNR, in investigating and stopping the violation. Any appeal of a violation would be done through the courts under NRS 533.450. Administrative details for addressing violations, assessing fines or penalties, and procedures would be done through the promulgation of rules and regulations.

- Mr. Taylor, previously identified, provided an explanation of the recommendation, possible violations, and regulations for fines. In response to a question from Senator Hardy, Mr. Taylor provided an example of a willful waste of water. Senator Hardy commented on the sliding scale of fees for violations and stated that the intent is not to have it apply to residential watering.

The Committee discussed the administrative fine process.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED APPROVAL OF RECOMMENDATION NO. 2 AND INCLUSION OF A STATEMENT IN THE COMMITTEE'S FINAL REPORT THAT FINES WOULD BE LIMITED AND SPECIFIC TO THE VIOLATION AND REQUESTING THE OFFICE OF THE STATE ENGINEER TO SUBMIT PROPOSED REGULATIONS TO THE 2007 LEGISLATURE. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

As directed by Chairman Rhoads, Senator Titus was recorded as voting in favor of Recommendation No. 2, as she requested.

Recommendation No. 3: Amend the statutes to allow local governments to "hold" water rights for a longer time recognizing their extended planning horizon and give private parties less time to prove beneficial use.

- Susan Scholley, Chief Principal Research Analyst, Research Division, LCB, explained a letter submitted to the Committee by Bevan Lister, Lincoln County Farm Bureau and Board member, Nevada Department of Wildlife, Pioche office. She clarified that

Mr. Lister wanted local governments to have less time to “hold” water rights, contrary to the statement in the “Work Session Document.” Please see [Exhibit D](#).

- Mr. Taylor, previously identified, provided clarification of the extensions of time for a good faith effort in regard to water applications and stated that the existing NRS process works well. He provided an example of when an application can be forfeited, but added that it is a rare occurrence.

The Committee took no action on Recommendation No. 3.

With the arrival of Senator Titus, all Committee members were present.

Recommendation No. 4: Amend the statutes to require evidence of a 100-year water supply as a condition of approving new subdivisions, using the Arizona model.

- Mr. Taylor, previously identified, explained that present law is more protective than Recommendation No. 4 because it requires evidence of a permanent supply of water.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED FOR NO FURTHER CONSIDERATION OF RECOMMENDATION NO. 4. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

Recommendation No. 5: Include a statement in the final report urging the State Engineer to be mindful of the state policy against speculation in water rights and to prevent speculation for profit.

- Mr. Taylor, previously identified, explained NRS 533.370.

The Committee discussed the definition of water speculation and a possible amendment to the NRS.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED TO INCLUDE A STATEMENT IN THE FINAL REPORT URGING THE STATE ENGINEER TO BE MINDFUL OF THE STATE POLICY AGAINST SPECULATION IN WATER RIGHTS, AS AMENDED TO INCLUDE “ANTI-SPECULATION” REGARDING WATER RIGHTS IN THE NRS TO PREVENT SPECULATION FOR PROFIT. THE MOTION WAS SECONDED BY ASSEMBLYMAN CLABORN.

Senator Amodei commented on the word “speculation” in regard to water rights and discussed the development of water resources by local governments. He opposed a change to the NRS because it could possibly place restrictions on local municipalities.

- SENATOR HARDY WITHDREW HIS PREVIOUS MOTION AND MOVED TO INCLUDE A STATEMENT IN THE FINAL REPORT STRENUOUSLY SUPPORTING THE STATE’S POLICY ON “ANTI-SPECULATION.” THE MOTION WAS SECONDED BY ASSEMBLYMAN CLABORN, WHICH PASSED UNANIMOUSLY.

Recommendation No. 6: *Include a statement in the final report requesting the State Engineer to consider taking action on subsequent applications when earlier filed applications are held in abeyance, if appropriate, given the specific circumstances of the affected applications.*

- Mr. Taylor, previously identified, indicated that the Office of the State Engineer supported the recommendation but only in cases where an application was pending in a basin where an interbasin transfer application was previously filed. He discussed the prior appropriation doctrine.

Discussion of proposed changes to the NRS ensued in which Assemblyman Goicoechea stated support for the recommendation in regard to the interbasin transfer of water. He was of the opinion that it is appropriate to move an application along, if a prior application has been pending for 20 years and is precluding further development in a basin.

Chairman Rhoads offered alternatives to including a statement in the final report. He stated the Committee could recommend: (1) adoption of a resolution; (2) sending a letter requesting the State Engineer, within the limits of the existing statute, to not give local governments any additional time to prove beneficial use and to not hold applications in abeyance for local governments; or (3) consideration by the appropriate committee during the 2007 Legislative Session.

- ASSEMBLYMAN CLABORN MOVED THAT RECOMMENDATION NO. 6 BE SUBMITTED FOR CONSIDERATION TO THE APPROPRIATE COMMITTEE IN THE 2007 LEGISLATIVE SESSION.

Senator Hardy stated opposition to the motion.

- ASSEMBLYMAN CLABORN WITHDREW HIS MOTION.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED FOR NO FURTHER CONSIDERATION OF RECOMMENDATION NO. 6. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

Recommendation No. 7: *Include a statement in the final report asking the State Engineer to consider, where appropriate, the use of new technology or updated information to determine perennial or basin yields.*

- SENATOR AMODEI MOVED TO INCLUDE A STATEMENT IN THE FINAL REPORT ASKING THE STATE ENGINEER TO CONSIDER, WHERE APPROPRIATE, THE USE OF NEW TECHNOLOGY OR UPDATED INFORMATION TO DETERMINE PERENNIAL OR BASIN YIELDS. THE MOTION WAS SECONDED BY ASSEMBLYMAN CLABORN.

The motion was not put before the Committee for a vote.

Senator Hardy requested clarification of perennial basin yield in Recommendation No. 7. Chairman Rhoads requested the State Engineer to comment on the technology used to determine basin yield; the information was presented by Mr. Taylor, previously identified.

The Committee discussed the technology used by the SDCNR for determining perennial and basin yields.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN GOICOECHEA MOVED TO INCLUDE A STATEMENT IN THE FINAL REPORT ASKING THE STATE ENGINEER TO CONSIDER, WHERE APPROPRIATE, THE USE OF NEW TECHNOLOGY OR UPDATED INFORMATION TO DETERMINE PERENNIAL OR BASIN YIELDS. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

Division of Water Resources

Recommendation No. 8: Amend statutes to create the Office of Water Resource Users Advocate in the State Department of Conservation and Natural Resources. This position is intended to: (a) help filter tenuous charges of injury or mismanagement related to water resources; (b) provide guidance to individuals or interests who feel injured, but may not have the sophistication to act on their concerns; and most importantly, (c) build a sense of parity among parties engaged in emerging water resource disputes.

- Allan Biaggi, Director, SDCNR, commented on the use of an ombudsman, but did not favor the recommendation.
- Jon Hutchings, Executive Director, Central Nevada Regional Water Authority, commented on broadening the level of due process in water resource disputes by providing advocacy services for individuals; he stated support for Recommendation No. 8.

Senator Rhoads explained alternatives for the Committee's consideration. Senator Amodei explained that if the 2007 Legislature supports the later recommendations then appropriate resources would be discussed at that time.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR NO FURTHER CONSIDERATION OF RECOMMENDATION NO. 8. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA.

Senator Titus stated opposition to the motion and her support for the ombudsman position.

The Committee discussed locating the ombudsman position in the SDCNR and the current services provided by that Department.

THE MOTION PASSED WITH SENATOR TITUS VOTING NAY.

Chairman Rhoads directed staff to include a statement in the Committee's final report on the importance of this issue.

Recommendation No. 9: Send a letter of support to the Governor and the Chairmen of the Senate Finance and Assembly Ways & Means Committees for the State Engineer's budget request for additional funding for water planning activities, including funding for the position of the Chief of Water Planning within the Division of Water Resources, SDCNR.

Recommendation No. 10: Send a letter of support to the Governor and the Chairmen of the Senate Finance and Assembly Ways & Means Committees for the State Engineer's budget request for additional funding to activate the Advisory Board on Water Resources Planning and Development.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR TITUS MOVED FOR THE APPROVAL OF RECOMMENDATION NOS. 9 AND 10. THE MOTION WAS SECONDED BY ASSEMBLYMAN CLABORN.

- Mr. Taylor provided clarification on the role of the Advisory Board and the State Water Plan. He explained that a request would be included in the SDCNR budget, which would be submitted to the Senate Committee on Finance and the Assembly Committee on Ways and Means during the 2007 Legislative Session.

During discussion of the proposed functions of the Advisory Board, Senator Amodei stated his opinion that Recommendation Nos. 9, 11, 12, 13, and 14 had a higher priority than Recommendation No. 10.

- SENATOR TITUS AMENDED HER MOTION TO ONLY APPROVE RECOMMENDATION NO. 9 TO REQUEST ADDITIONAL FUNDING FOR WATER PLANNING ACTIVITIES, INCLUDING FUNDING FOR THE POSITION OF THE CHIEF OF WATER PLANNING WITHIN THE

DIVISION OF WATER RESOURCES, SDCNR. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN PARKS MOVED TO APPROVE RECOMMENDATION NO. 10 TO REQUEST ADDITIONAL FUNDING TO ACTIVATE THE ADVISORY BOARD. THE MOTION WAS SECONDED BY ASSEMBLYMAN CLABORN. THE MOTION PASSED WITH SENATOR AMODEI AND ASSEMBLYMAN GOICOECHEA VOTING NAY.

Recommendation No. 11: Send a letter of support to the Governor and the Chairmen of the Senate Finance and Assembly Ways & Means Committees recommending funding or other support for an increase in the technical capacity of the Division of Water Resources, SDCNR, (e.g. hiring persons with degrees in hydrology or hydrogeology) to allow greater monitoring, evaluation, and oversight.

- Jon Hutchings, previously identified, stated that it is necessary for hydrologists in the Office of the State Engineer to be available to interpret, oversee, and participate in technical studies performed throughout the State.

Senator Titus suggested Recommendation Nos. 11, 12, 13, and 14 be combined in one letter of support to provide additional technical staff and resources for the Office of the State Engineer. Assemblyman Goicoechea stated support for the recommendation. In addition, Senator Amodei stated that support for the SDCNR is essential for the effective management of the State's water resources.

Recommendation No. 12: Send a letter of support to the Governor and the Chairmen of the Senate Finance and Assembly Ways & Means Committees recommending the addition of staff in the Division of Water Resources, SDCNR, to increase the capacity of the Office of the State Engineer to conduct and maintain water resource inventories, through monitoring and identification of water sources, including without limitation, wells, large local springs, and surface waters.

Recommendation No. 13: Send a letter of support to the Governor and the Chairmen of the Senate Finance and Assembly Ways & Means Committees recommending funding for additional staff in the Division of Water Resources, SDCNR, to handle the backlog of pending requests for adjudications and other hearings.

Recommendation No. 14: Send a letter of support to the Governor and the Chairmen of the Senate Finance and Assembly Ways & Means Committees recommending additional funding for the Division of Water Resources, SDCNR, to facilitate the update and creation of water resource inventories and to expedite hearings.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR TITUS MOVED TO COMBINE RECOMMENDATION NOS. 11, 12, 13, AND 14 INTO ONE LETTER OF SUPPORT RECOMMENDING ADDITIONAL FUNDING FOR THE DIVISION OF WATER RESOURCES, SDCNR. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

Studies/Data

Recommendation No. 15: Request an appropriation of \$1 million to continue the Water Rights Technical Support Fund, as enacted by Senate Bill 62 (Chapter 493, Statutes of Nevada 2005) through the next biennium and until 2009.

- Leo Drozdoff, P.E., Administrator, Division of Environmental Protection, SDCNR, provided information on the Water Rights Technical Support Fund and the 13 grants awarded statewide provided by Senate Bill 62 and Senate Bill 18 (Chapter 273, Statutes of Nevada 2005).

As requested by Chairman Rhoads, Recommendation Nos. 20 and 21 were taken out of order.

Recommendation No. 20: Amend the statutes and request an appropriation of \$1 million to create a permanent need-based fund for local water resource planning and information management. The fund would provide grants similar to the grants provided by the Water Rights Technical Support Fund (S.B. 62) but the legislation would create a framework for long-term funding and provide clear direction for program administration by the State Board of Financing Water Projects. In addition, priority would be given to rural counties and local governments outside the urban areas within Clark and Washoe Counties. The Legislature's intent to consistently fund water resource planning and information management should be explicit in the bill.

Recommendation No. 21: Amend the statutes to expand the eligible uses of the Fund for Grants for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems to include requests for need-based funding for water resource plan implementation, e.g., infrastructure development. This fund is administered by the State Board for Financing Water Projects and is commonly referred to as the A.B. 198 program.

The Committee discussed the funding sources in Recommendation Nos. 20 and 21, water applications, and the need for local entities to demonstrate they have the resources to development water resources for water rights applications.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN GOICOECHEA MOVED TO COMBINE RECOMMENDATION NOS. 15 AND 20 AND TO REQUEST AN APPROPRIATION OF \$1 MILLION, AND TO ALSO APPROVE RECOMMENDATION NO. 21.

Recommendation No. 16: Request an appropriation to the Division of Water Resources for the purpose of contracting for groundwater basin studies to inventory surface, ground and domestic well water in basins where conflicts are identified and prioritized. The approximate cost is \$1.6 million per basin study or about \$3.2 to \$4.8 million annually (2-3 studies).

- Susan Lynn, Executive Director, Great Basin Water Network, stated that additional studies conducted by the State or the United States Geological Survey (USGS) would be beneficial in managing water resources. She explained that the studies would not be performed in the pre-application phase of the water rights process and noted that individuals would not have resources to perform the studies.
- Mr. Taylor, previously identified, proposed that a revolving fund be created to provide more flexibility in determining what and when studies would be conducted.

Discussion ensued in which Senator Hardy stated that more information was required on contracting for groundwater basin studies.

Chairman Rhoads provided alternatives for Recommendation No. 16.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED FOR NO FURTHER CONSIDERATION OF RECOMMENDATION NO. 16. THE MOTION WAS SECONDED BY ASSEMBLYMAN PARKS. THE MOTION FAILED WITH SENATORS RHOADS AND AMODEI VOTING NAY.

No further action was taken by the Committee.

Recommendation No. 17: Direct the Legislative Counsel Bureau (LCB) to undertake a comparative study of water resource organizational structures for several western states (Utah, Idaho and Arizona) to identify: (a) responsibilities for groundwater studies and conservation programs; (b) required water commitments for development; and (c) methods of how each state constructs the definitions of public benefits and public interests. The LCB study would be submitted to the 2009 Legislature. ALTERNATIVELY OR IN ADDITION TO SUBMITTAL TO THE LEGISLATURE, the Committee could direct that the report be submitted by January 1, 2008, to the interim committee assigned to review water resource issues.

Chairman Rhoads requested clarification of Recommendation No. 17 from the Office of the State Engineer.

- Mr. Taylor, previously identified, stated that SDCNR is a member of the Western States Engineers Association and Western States Water Council which facilitate information sharing on water resource issues in western states.

The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR NO FURTHER CONSIDERATION OF RECOMMENDATION NO. 17. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

Recommendation No. 18: Adopt a resolution directing collaboration between the State Engineer, local governments, water districts and authorities, water purveyors, large commercial/agricultural users, other water users, and the sharing of water use data, with the goal of implementing a statewide information management system to assist in the development and management of groundwater resources.

- Jon Hutchings, previously identified, stated that the members of the Central Nevada Water Authority are currently gathering information to facilitate the management of groundwater resources.
- Mr. Taylor, previously identified, explained that individual irrigation districts handle distribution and provision of use-related data, and stated that data from the SDCNR is available to the public.

During discussion Senator Amodei stated his intention to submit an amendment during the 2007 Legislative Session to clarify public information requests.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED TO ADOPT A RESOLUTION DIRECTING COLLABORATION BETWEEN THE STATE ENGINEER, LOCAL GOVERNMENTS, WATER DISTRICTS AND AUTHORITIES, WATER PURVEYORS, AND LARGE COMMERCIAL/AGRICULTURAL USERS FOR THE SHARING OF WATER USE DATA. THE MOTION WAS SECONDED BY ASSEMBLYMAN CLABORN, WHICH PASSED UNANIMOUSLY.

Recommendation No. 19: Send a letter to Nevada's Congressional Delegation, Desert Research Institute, the University of Nevada Reno, and University of Nevada Las Vegas, urging them to work together to obtain funding for development of a statewide research program on sustainable groundwater development, including agricultural and urban conservation, policy research, and governance structures.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR TITUS MOVED TO SEND A LETTER TO NEVADA'S CONGRESSIONAL DELEGATION, DESERT RESEARCH INSTITUTE, THE UNIVERSITY OF NEVADA RENO, AND UNIVERSITY OF NEVADA LAS VEGAS, URGING THEM TO WORK TOGETHER TO OBTAIN FUNDING FOR DEVELOPMENT OF A STATEWIDE RESEARCH PROGRAM ON SUSTAINABLE GROUNDWATER DEVELOPMENT, INCLUDING AGRICULTURAL AND URBAN CONSERVATION, POLICY RESEARCH, AND GOVERNANCE STRUCTURES. THE MOTION WAS SECONDED BY SENATOR HARDY, WHICH PASSED UNANIMOUSLY.

Conservation/Planning

Recommendation No. 20: Amend the statutes and request an appropriation of \$1 million to create a permanent need-based fund for local water resource planning and information management. The fund would provide grants similar to the grants provided by the Water Rights Technical Support Fund (S.B. 62) but the legislation would create a framework for long-term funding and provide clear direction for program administration by the State Board of Financing Water Projects. In addition, priority would be given to rural counties and local governments outside the urban areas within Clark and Washoe Counties. The Legislature's intent to consistently fund water resource planning and information management should be explicit in the bill.

The Committee combined and approved Recommendation No. 20 with Recommendation No. 15.

Recommendation No. 21: Amend the statutes to expand the eligible uses of the Fund for Grants for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems to include requests for need-based funding for water resource plan implementation, e.g., infrastructure development. This fund is administered by the State Board for Financing Water Projects and is commonly referred to as the A.B. 198 program.

The Committee combined and approved Recommendation No. 21 with Recommendation No. 15.

Recommendation No. 22: Amend the statutes to prohibit forfeiture of water rights due to the implementation of conservation measures, using Utah Code §73-1-4 as a model.

- Mr. Taylor, previously identified, offered to participate in developing a BDR for Recommendation No. 22.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED TO REVISE RECOMMENDATION NO. 22 TO A STATEMENT IN THE FINAL REPORT THAT WATER IS NOT TO BE FORFEITED BECAUSE IT WAS CONSERVED. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

Recommendation No. 23: Amend the statutes to allow the State Engineer to approve rotational crop management contracts that thereby permit other uses of the conserved water, including leasing of such conserved water rights.

Chairman Rhoads commented on options for leasing water.

- Mr. Taylor, previously identified, noted that changes in use can be made by using a change application.

The Committee took no action on Recommendation No. 23.

Recommendation No. 24: Amend the statutes to require water conservation plans to include what steps will be, and have been, taken to use water more efficiently and how much water may have been saved in various water use sectors, including urban, residential, commercial, agriculture, golf courses, and public facilities, such as schools, colleges, public buildings' indoor and outdoor use, and athletic fields.

- Ms. Lynn, previously identified, stated that if water conservation plans were updated they would show what conservation methods have been effective and the amount of water conserved.
- Mr. Taylor, previously identified, stated that water conservation plans are now required to be updated every five years, and water providers have been notified by SDCNR to submit updated information.

The Committee took no action on Recommendation No. 24.

Recommendation No. 25: Amend the statutes to require annual reports from water providers serving 600 or more customers in counties whose population is greater than 100,000. These reports would accompany the annual water quality report and be distributed to ratepayers and the appropriate local government. Reports would include: (a) locations and amounts of water supplied by source; (b) total and average use of water by user groups, e.g., single-family, multi-family, commercial, resort-hotel casino, public facilities, golf courses; (c) total water loss in the water supply system; and (d) totals for income, expenditures, and debts of the water provider, as well as anticipated costs for each project planned within the upcoming 10 years.

- Ms. Lynn, previously identified, stated the benefits of providing the information to user groups.

- Mr. Taylor, previously identified, stated neutrality on the recommendation.

The Committee took no action on Recommendation No. 25.

Recommendation No. 26: Adopt a resolution emphasizing the importance of and encouraging water conservation and further urging water providers to demonstrate water savings and to implement conservation (tiered) pricing.

- Mr. Taylor, previously identified, suggested that the recommendation be a statement in the final report rather than a resolution.
- Ms. Lynn, previously identified, discussed tiered pricing and was of the opinion that increasing the number of tiers prompted conservation.

The Committee took no action on Recommendation No. 26.

Recommendation No. 27: Adopt a resolution encouraging rural development that matches the availability of water resources with new businesses and industry.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN GOICOECHEA MOVED TO APPROVE RECOMMENDATION NO. 27. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

Interbasin Transfers

Recommendation No. 28: Amend the statutes to authorize the counties to set aside up to \$2 of the fee on interbasin transfers to be used for compensating private parties impacted by water exports. The counties shall adopt ordinances setting forth the application process and criteria to be used for dispersal of the funds and for the administration of the set-aside, including any provisions for reversion to the County.

- Mr. Taylor, previously identified, provided information on the consequences of the recommendation. He stated that if water rights are affected, the Office of the State Engineer will become involved in the mitigation process, which could become problematic.
- In response to a question from Assemblyman Goicoechea, Ms. Scholley, previously identified, provided an explanation of the recommendation and fee structure.
- Mr. Taylor provided an explanation of fees on interbasin transfers.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN GOICOECHEA MOVED TO INCLUDE A STATEMENT IN THE FINAL REPORT FOR RECOMMENDATION NO. 28. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED WITH SENATOR HARDY VOTING NAY.

Recommendation No. 29: Amend the statutes to clarify that only consumptive use can be transferred between water basins.

- Mr. Taylor, previously identified, stated the Office of the State Engineer would work on a BDR for Recommendation No. 29.

Senator Hardy stated opposition to Recommendation No. 29.

- In response to a question from Assemblyman Goicoechea, Mr. Taylor provided additional information on consumptive use.

The Committee took no action on Recommendation No. 29.

Recommendation No. 30: Amend the statutes to allow issuance of temporary permits for interbasin transfers and require data reports for three to five years as a condition of the permit. Data reports shall include water levels, recharge rates, impacts to habitat, and environmental impacts. At the end of the monitoring period the State Engineer shall hold a public hearing and determine whether to issue a final permit.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED FOR NO FURTHER CONSIDERATION OF RECOMMENDATION NO. 30. THE MOTION WAS SECONDED BY ASSEMBLYMAN CLABORN, WHICH PASSED UNANIMOUSLY.

Recommendation No. 31: Adopt a resolution directing the State Engineer to consider the following during the permitting process for interbasin or intercounty transfer projects that result in the exportation of a significant portion of the groundwater resources: (1) a comprehensive baseline inventory of historical and current water uses and related environmental factors; (2) an in-place, continuing monitoring system to ascertain impacts; (3) incorporation of the baseline inventory and monitoring into the project, along with the hydrogeology studies; (4) implementation of testing; and (5) incremental development of the project.

- Mr. Taylor, previously identified, stated the State Engineer currently has the authority to perform the functions included in Recommendation Nos. 31 and 32.

The Committee took no action on Recommendation No. 31.

Recommendation No. 32: Adopt a resolution directing the Division of Water Resources, SDCNR, to establish a baseline inventory over time, including: (a) information and data on certificated rights; (b) historical and actual uses; (c) proof of beneficial uses; and (d) itemization of acres affected by surface/subsurface flows or water tables that create meadows or pastures. Further, direct the Division to implement monitoring systems.

The Committee took no action on Recommendation No. 32.

Recommendation No. 33: Send a letter requesting the State Engineer to investigate new models for estimating impacts from interbasin transfers of large quantities of water.

The Committee took no action on Recommendation No. 33.

Recommendation No. 34: Include a statement in the final report urging the Southern Nevada Water Authority (SNWA) and the State Engineer, in connection with an interbasin transfer, to: (1) develop a clear description of the project; (2) identify and investigate the potential environmental and socio-economic impacts of the project; (3) ensure that rural communities have adequate water for future development; (4) develop and implement a rigorous monitoring program; (5) regulate purchases from urban areas; and (6) consider conveyance of water by lease rather than transfer of ownership.

Senator Hardy expressed reluctance to change Nevada's water law.

Assemblyman Goicoechea suggested deleting the language "Southern Nevada Water Authority" and was of the opinion that regulating purchases from urban areas would be problematic.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED TO APPROVE RECOMMENDATION NO. 34, AS MODIFIED. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

Wells/Groundwater Issues

Recommendation No. 35: Amend the statutes to require that the State Engineer to give notice in all basins prior to forfeiture for nonuse of water. In the absence of pumping records in certain basins, the State Engineer may base a notice of forfeiture on other evidence of nonuse. Currently, prior to forfeiture the State Engineer must give notice of four years of nonuse only in basins for which the State Engineer has pumping records, also referred to as inventoried basins.

- Mr. Taylor indicated the State Engineer would support the recommendation with consideration of previous amendments to NRS 534.090, but this should not restart the clock on water rights with five or more years of nonuse when the legislation is enacted. He stated he is available to work on details and definitions in the BDR.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED TO APPROVE RECOMMENDATION NO. 35 WITH THE STATE ENGINEER'S COMMENTS. THE MOTION WAS SECONDED BY SENATOR HARDY, WHICH PASSED UNANIMOUSLY.

Recommendation No. 36: Amend the statutes to set the priority date for a domestic well as the completion date of the well as stated on the well log submitted to the Division of Water Resources, SDCNR, by the well driller.

- Mr. Tracy indicated the State Engineer supported the recommendation and would provide information on the establishment of priority dates for all wells, including existing wells.
- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN GOICOECHEA MOVED TO APPROVE RECOMMENDATION NO. 36. THE MOTION WAS SECONDED BY SENATOR AMODEI, WHICH PASSED UNANIMOUSLY.

Recommendation No. 37: Amend the statutes to address water service to auxiliary dwellings, e.g., caretaker's quarters or mother-in-law unit, from a domestic well if: (a) local ordinances allow for such uses; and (b) with the condition that a meter be installed on the well to measure usage to ensure the total water pumped does not exceed two acre feet. In addition, the proposed amendment would quantify the limit on domestic use as two acre feet per year instead of 1,800 gallons per day (gpd). This change recognizes that more water is usually needed in the summer months than in the winter months and that the total annual use from a domestic well is what is used for planning purposes.

- The State Engineer stated support for the recommendation and explained the issue of mother-in-law quarters and similar uses.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED TO APPROVE RECOMMENDATION NO. 37 TO AMEND THE STATUTES TO ADDRESS WATER SERVICE TO AUXILIARY DWELLINGS. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

Recommendation No. 38: Amend the statutes to authorize the State Engineer to order any person in violation of the provisions of NRS Chapter 534 and NAC Chapter 534 to: (a) pay an administrative fine not to exceed \$10,000 per day for each violation; and (b) be liable for any expense incurred by the Division of Water Resources, SDCNR, in investigating and stopping the violation. Any appeal of a violation will be done through the courts pursuant to NRS 533.450.

- RECOMMENDATION NO. 38 NOT ACTED UPON BASED ON PASSAGE OF RECOMMENDATION NO. 2.

Recommendation No. 39: Amend the statutes to clarify that the State Engineer can order a groundwater permittee to cease pumping if monitoring shows significant impacts.

- Brad Goetsch, Churchill County Manager, commented on the effects of groundwater pumping in rural Nevada and commented on the relationship between surface and groundwater pumping. Please see [Exhibit E](#), [Exhibit E1](#), and [Exhibit E2](#).
- In response to a question from Assemblyman Goicoechea, Mr. Taylor explained the State Engineer’s authority to regulate wells and discussed reasonable impacts of wells on groundwater levels.
- Ed James, Carson City Regional Water Authority, was of the opinion that the issue of surface and groundwater interaction and water rights needed to be investigated further.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR NO FURTHER CONSIDERATION OF RECOMMENDATION NO. 39 AS SUBMITTED, BUT AMENDED THE MOTION TO INCLUDE A STATEMENT IN THE FINAL REPORT NOTING THE IMPORTANCE OF CONJUNCTIVE USE ISSUES AND RECOMMENDING THIS SUBJECT FOR FURTHER STUDY. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOCHEA, WHICH PASSED UNANIMOUSLY.

Recommendation No. 40: Amend the statutes to require a minimum dedication of water rights for parcel maps if local ordinances do not regulate domestic wells. ALTERNATIVELY, amend the statutes to require the State Engineer to initiate designation of basins in jurisdictions without local regulation of domestic wells and to require the dedication of water rights for parcel maps in designated basins.

- Senator Amodei asked if the Office of the State Engineer would develop regulations for monitoring the designations.
- Mr. Taylor said the State Engineer supports the recommendation and suggested that the authority to require dedication should be discretionary and not mandatory because it could create a hardship to acquire additional water rights.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED TO APPROVE RECOMMENDATION NO. 40 WITH AMENDMENTS PROPOSED BY THE OFFICE OF THE STATE ENGINEER AND TO APPLY TO PARCEL MAPS

WHICH ARE BELOW THE LEVEL OF LAND DIVISION OF LARGE PARCELS (40-ACRES). THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOCHEA.

- Andy Belanger, Senior Management Analyst, SNWA, provided information on water rights for domestic wells in the Las Vegas valley.
- Robert Coache, Chief Engineer, SDCNR Southern Nevada, explained the conditions of approval for domestic wells and the permit process and indicated that Recommendation No. 40 would not create a conflict because it would be discretionary.

THE MOTION PASSED UNANIMOUSLY.

Recommendation No. 41: Adopt a resolution urging counties and cities concerned about the impact of domestic wells on water resources to enact local ordinances that require water rights for drilling of domestic wells on newly created parcels. Furthermore the water right dedicated for the domestic well, held by the county or city, could be transferred to a public utility when or if the parcel is served by a municipality or a water purveyor regulated by the Public Utilities Commission or the Nevada Division of Environmental Protection, SDCNR.

- Steve Walker, representing Douglas County, discussed water right dedication and was of the opinion that Recommendation No. 41 would improve the administration of domestic wells and the water right dedication process.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR THE APPROVAL OF RECOMMENDATION NO. 41. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOCHEA, WHICH PASSED UNANIMOUSLY.

Recommendation No. 42: Send a letter to the State Engineer urging him to consider the recommendations of the Advisory Committee for Groundwater Management in the Las Vegas Valley to bring well owners into compliance with permit terms or statutory limits on groundwater pumping through a graduated assessment structure based upon the quantity of water overpumped and the duration of non-compliance with permit or statutory limits, with an allowance for meter error. Further, for certain residential properties with allocations of less than 1,000 gpd per residence, urge the State Engineer to support the Advisory Committee's recommendation that penalties only be applied to water use over 1,000 gpd.

- Mr. Taylor, previously identified, recommended combining Recommendation Nos. 42 and 2.

The Committee took no action on Recommendation No. 42.

Recommendation No. 43: Amend the statutes to allow the daily pumping limit of 1,800 gpd for domestic wells to be averaged over a calendar year for the purpose of determining compliance with pumping limits.

The Committee took no action on Recommendation No. 43.

Recommendation No. 44: Amend the statutes to enable domestic or quasi-municipal well owners to “purchase” additional water (over the 1,800 gpd) from the local water purveyor to address overuse through an offset mechanism whereby the water purveyor would reduce its pumping by an equivalent amount.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR NO FURTHER CONSIDERATION OF RECOMMENDATION NO. 44. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

Recommendation No. 45: Amend the statutes to enable domestic or quasi-municipal well owners to form a “Trading Allocation Pool (TAP)” consisting of credits from owners of wells using less than 1,800 gpd that are sold to the TAP for purchase by well owners desiring to exceed the 1,800 gpd limit. The TAP could be a non-profit organization or implemented by a willing water purveyor.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR NO FURTHER CONSIDERATION OF RECOMMENDATION NO. 45. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

Recommendation No. 46: Adopt a resolution urging the State Engineer and local governments, water districts and authorities, water purveyors, and others to work together to predict and quantify domestic well use to facilitate planning and mitigation.

- In response to questions from the Committee, Mr. Taylor, previously identified, explained the process used for monitoring water usage in Pahrump and provided information on the water table.
- Mr. Coache, previously identified, provided further information on: (1) water use in Pahrump; (2) development in the area; and (3) effects on the water table.

The Committee took no action on Recommendation No. 46.

Recommendation No. 47: Send a letter to the Division of Water Resources, SDCNR, requesting the development of policies for mitigation for over-appropriations of groundwater and asking the Division to report its findings to the 2009 Legislature.

- Mr. Taylor, previously identified, explained the State’s authority to limit pumping and the mitigation policies.
- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN CLABORN MOVED TO APPROVE RECOMMENDATION NO. 47. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

Recommendation No. 48: Include a statement in the final report urging the State Engineer to look at impacts on subsurface irrigated lands when approving groundwater permits.

The Committee took no action on Recommendation No. 48.

Miscellaneous

Recommendation No. 49: Amend the statutes to create an interim standing committee on water resources with a sunset date of June 30, 2015.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR THE APPROVAL OF RECOMMENDATION NO. 49. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

Recommendation No. 50: Amend the Lincoln County Water District Act (S.B. 336–2003 Session) to require election of the Water District Board so that the Lincoln County Commission would no longer function as the Water District Board.

- Mike Baughman, President, Intertech Services Corporation, Lincoln County, provided information on the duties of the Lincoln County Commission and stated that the Board of County Commissioners does not support the recommendation.

The Committee took no action on Recommendation No. 50.

Recommendation No. 51: Adopt a proclamation from the Committee commending Hugh Ricci for his years of state service and retirement as State Engineer.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR AMODEI MOVED FOR THE APPROVAL OF RECOMMENDATION NO. 51. THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA, WHICH PASSED UNANIMOUSLY.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:52 p.m.

Respectfully submitted,

Lucinda Benjamin
Senior Research Secretary

Susan E. Scholley
Chief Principal Research Analyst

APPROVED BY:

Senator Dean A. Rhoads, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Susan E. Scholley, Chief Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is the Work Session Document for the Legislative Commission’s Committee to Study the Use, Management, and Allocation of Water Resources (Senate Concurrent Resolution No. 26, File No. 100, *Statutes of Nevada 2005*) provided by Susan E. Scholley, Chief Principal Research Analyst, Research Division, LCB.

[Exhibit C](#) is a document titled “State Engineer’s Comments on the S.C.R. 26, June 21, 2006, Work Session Document,” submitted by Tracy Taylor, P.E., State Engineer, State Department of Conservation and Natural Resources.

[Exhibit D](#) is a letter dated June 20, 2006, to Senator Dean. A. Rhoads, Chairman, S.C.R. 26 Water Resources Committee, from Bevan Lister, Lincoln County Farm Bureau and Board member, Nevada Department of Wildlife, Pioche, Nevada.

[Exhibit E](#) is a presentation titled “S.C.R. 26 Bill Draft Recommendation for 2007 Session of Nevada Legislature,” submitted by Brad Goetsch, Churchill County Manager, and Chris C. Mahannah, P.E., Principal, Water Research and Development, Inc.

[Exhibit E1](#) is a Ruling from the Office of the State Engineer for applications filed to appropriate water from an underground source in Smith Valley, Lyon County, Nevada, submitted by Brad Goetsch, Churchill County Manager.

[Exhibit E2](#) is Supreme Court Opinion No. 10544 filed July 29, 1980, for *Robert H. Griffin and Honewill Land and Livestock Company, Inc., Appellants, v. Roland D. Westergard, State Engineer of the State of Nevada, Respondent*, submitted by Brad Goetsch, Churchill County Manager.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.