

Water Law

An Overview and Related Issues

Legislative Committee on Public Lands

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State Engineer**



Who Owns the Water?

All sources of water within the boundaries of the State whether above or beneath the surface of the ground, belong to the public.

(533.025 and 534.020)



Water Law in Nevada

Prior Appropriation Doctrine

- ✓ First in time, first in right,
 - ✓ Beneficial use is the limit of the water right,
 - ✓ Use it or lose it
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- ✓ Nevada's water law is one of the most complete and comprehensive in the West.



DUTIES OF THE STATE ENGINEER

- Appropriation
- Adjudication
- Well Drilling Regulations
- Water Right Ownership
- Distribution & Regulation
- Water Planning
- Flood Plain Management
- Dam Safety
- Artificial Recharge
- Primary and Secondary Applications
- Subdivision Review

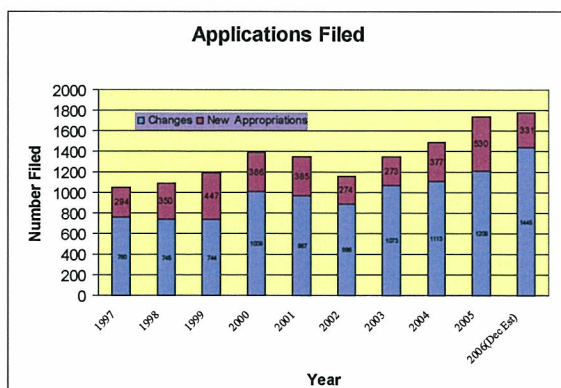


The Appropriation Process

All use of water requires a permit from the State Engineer except for domestic wells.
(534.180)



APPLICATIONS FILED



- CONTINUE UPWARD TREND
- AVERAGING 140 PER MONTH
- ABOUT 25% ARE FOR NEW APPROPRIATIONS



Criteria

Approval or denial of water rights based on four (4) primary criteria (533.370):

- Is there unappropriated water?
- Will it conflict with existing rights?
- Cannot threaten to prove detrimental to the public interest
- Does the use conflict with existing domestic wells?



ADDITIONAL CRITERIA

Speculation

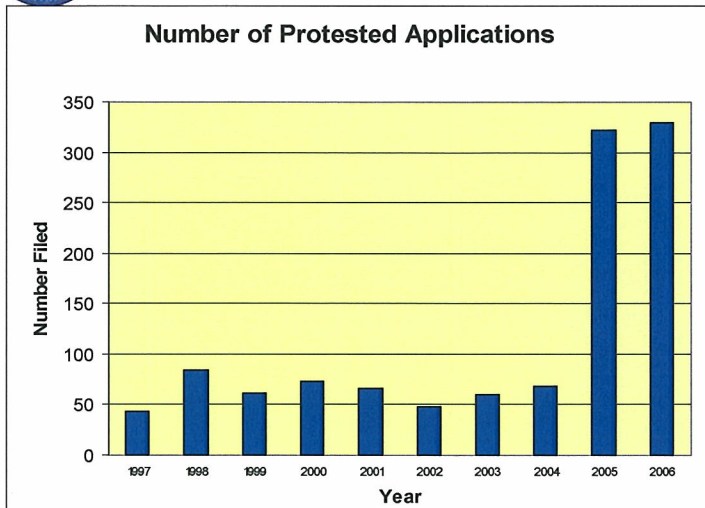
Whether the applicant can provide proof satisfactory to the State Engineer of:

- Intention in good faith to construct any work necessary to apply the water to the intended beneficial use; and
- His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use.

(NRS 533.370)



PROTESTED APPLICATIONS



9



Water Issues

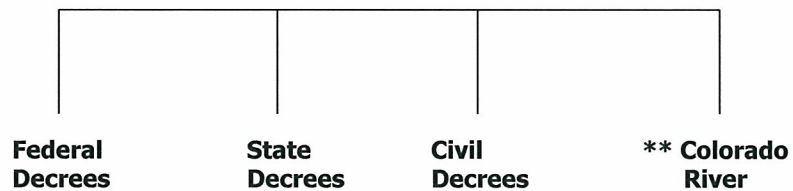
- One of the fastest growing areas in the nation
- Driest state in the nation
- Must have a sustainable yield of water for the future
- State is shifting from agriculture use to municipal use

Is there unappropriated water?



SURFACE WATER

* 4.5 Million Acre-Feet



* Excluding Colorado River, Nevada has approximately 3.2 million acre-feet of runoff within the state, plus 1.3 million acre-feet flowing into the state.

** Colorado River allocation is administered by the Colorado River Commission through the Bureau of Reclamation (BoR)

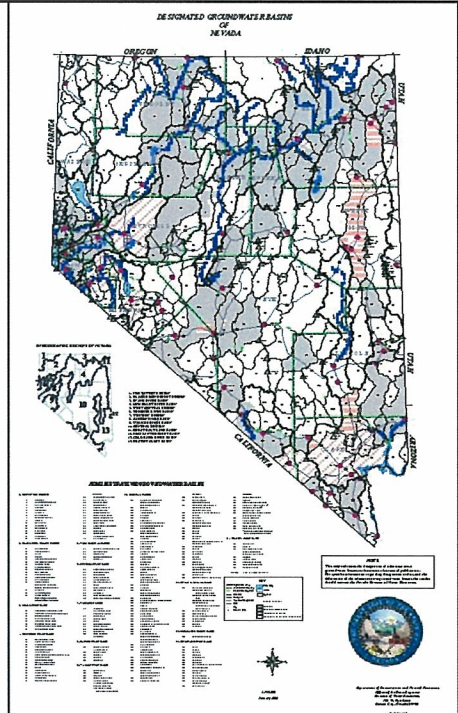


Ground Water

- Very little development until the 1960's
- State divided into hydrographic basins
- Designated and non-designated basins

120¹ Groundwater Basins of the 256¹ are Designated or Partially Designated

¹ These numbers include sub-areas of groundwater basins.





Perennial Yield Concept

- Can be defined as the maximum amount of ground water than can be salvaged each year over the long term without depleting the ground water reservoir.
- USGS Recon and Bulletin Reports calculated perennials yields starting in the 1940's



Interbasin Transfers

- **Not a new idea!**
- **Point of Diversion in one basin and Place of Use in Another**
- 1st interbasin transfer was in 1873
Marlette Lake to Virginia City (Lake Tahoe Basin to Dayton Valley)
- Water very valuable



Additional Criteria When Considering Interbasin Transfers

Adopted in the 1999 legislation session (533.370)

- Justified the need to import the water from another basin;
- Plan for conservation
- Environmentally sound
- Not unduly limit the future growth
 - How do we determine amount for future growth
 - 1st ruling Mesquite Valley
 - Reduced from 2000 af to 415 af
- Any other factor determined to be relevant



Las Vegas Valley Water District

- In-State Resources (Primarily GW but includes Virgin River filing)
 - Filed 146 applications in 1989 in 27 basins for the appropriation of 180,000 acre-feet of groundwater
 - Withdrew 32 applications from 10 of the basins
 - Twelve permits have been granted (duty in parenthesis is amount applied for)
 - Virgin River – 130,000 afa
 - Garnet and Hidden Valleys – 2200 afa (7240 afa)
 - California Wash – 2500 afa (14480 afa)
 - Tikapoo Valley North – 2587 afa (7240 afa)
 - Tikapoo Valley South – 1700 afa (11584 afa)
 - Three Lakes Valley North – 3700 afa (11584 afa)
 - Three Lakes Valley South – 2618 afa (11584 afa)
 - Remaining 102 applications have over 3,000 protests



Summary of Applications

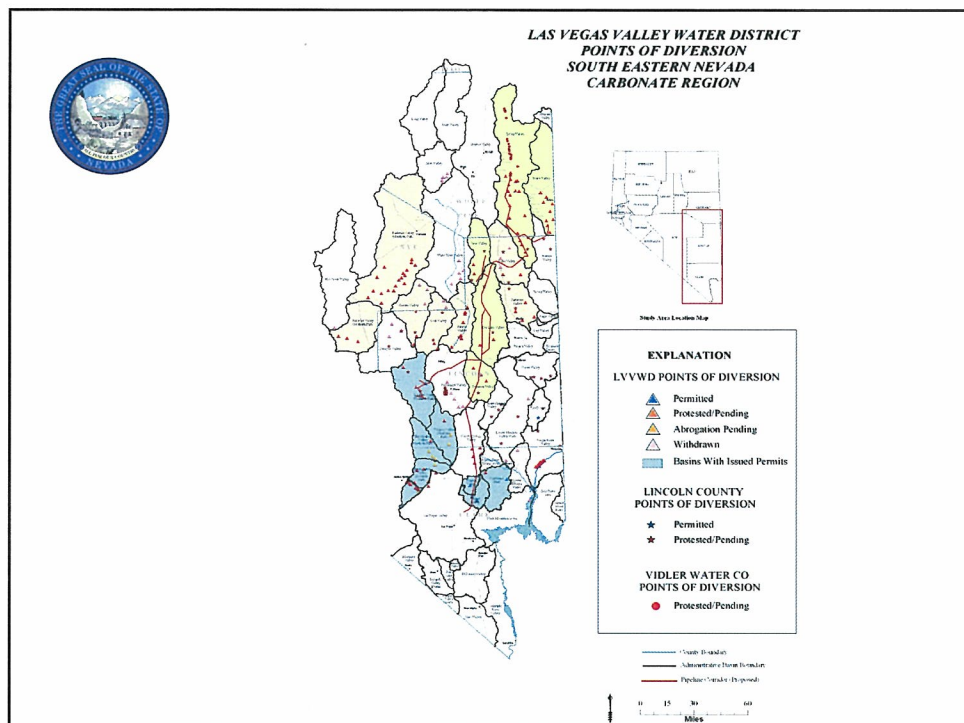
Basin Name	Apps	Total Requested
Spring V.	19	91,220 AF
Snake V.	9	50,680 AF
Cave V.	2	11,580 AF
Dry Lake V.	2	11,580 AF
Delamar V.	<u>2</u>	<u>11,580 AF</u>
Total	34	176,640 AF*

* Represents maximum duty that may be granted.



Spring Valley Ruling

- Shall not exceed 60,000 acre-feet annually subject to the staged development guidelines
- A minimum ten (10) year period which time a maximum of 40,000 acre-feet
 - The State Engineer shall evaluate the effects of the initial pumpage
- A monitoring and mitigation program approved by the State Engineer a minimum of five (5) years prior to the export of any water
- A minimum of five (5) years of biological and hydrological baseline data



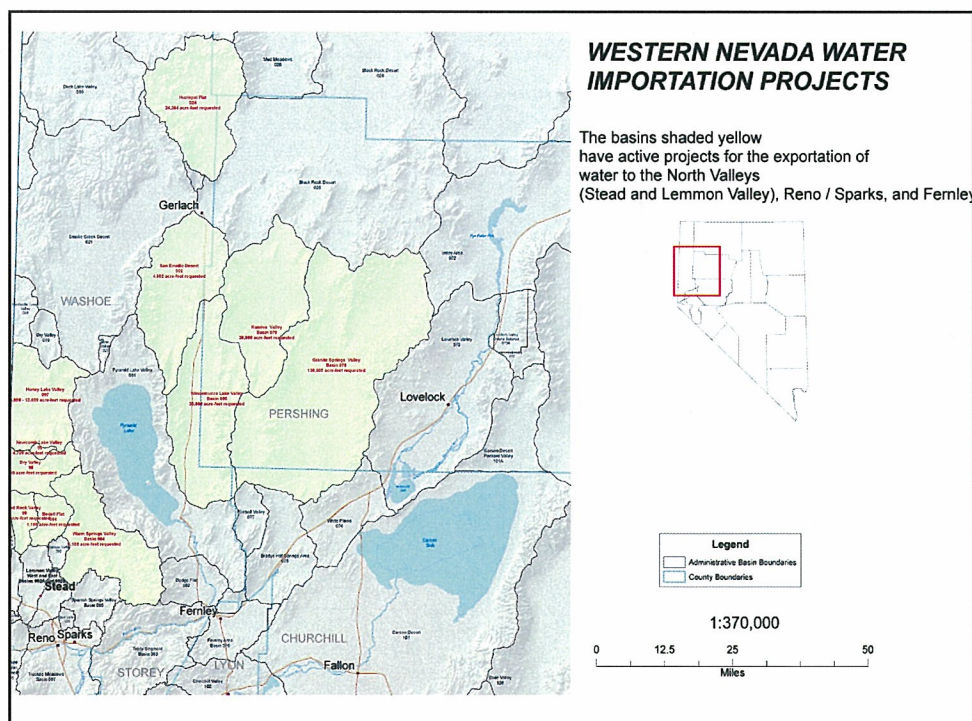
Interbasin Transfers of Interest

- Honey Lake Basin to North Valleys (Reno)
- Redrock Valley to North Valleys (Reno)
- Warm Springs to North Valleys (Reno)
- AquaTrac Granite Springs Valley to Fernley/Reno



Interbasin Transfers of Interest

- Sonterra Development Company
 - 24 Applications to transfer 7,434 acre-feet of groundwater from Hualapai Flat and San Emidio Desert
- High Rock Holding, LLC
 - 35 Applications to transfer 20,415 acre-feet of groundwater from Hualapai Flat
- Juniper Hills Partners, LLC
 - 2 Applications to transfer 1,416 acre-feet of surface water from Hualapai Flat

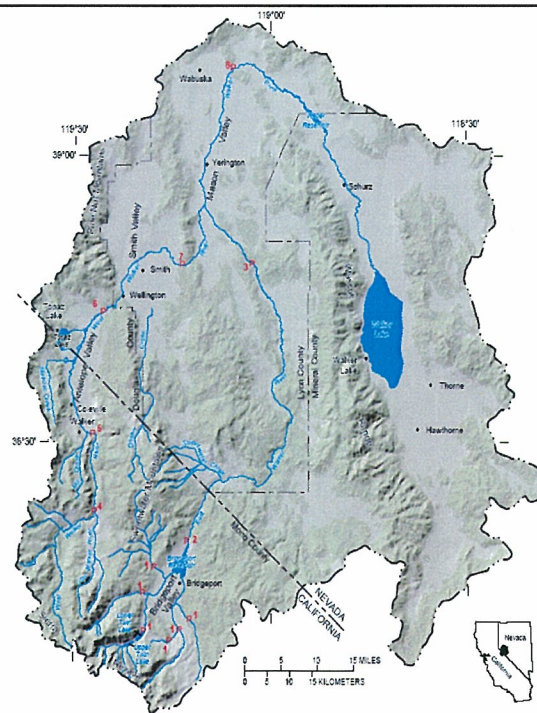




Protests of all
groundwater
applications in
Carson Valley and
Dayton Valley



Issues
Walker Lake TDS
Federal claims
Public Trust claims
Fully appropriated





2007 Legislation

- Legislative Committee on Public Lands
- Fines/Penalties
- Consumptive Use
- Permitting Provisions
- Decisions Following a Hearing



2007 Legislation

- Successor in Interest of a Protest
- Reopening of Protest Period
- Domestic Wells
- Mother-in-Law Quarters
- 4-Year Nonuse Letters
- Parceling Dedication or Relinquishment



Thank You, Questions?

<http://water.nv.gov>