

Eureka County input on AB 30 Second Reprint

Senate Committee on Natural Resources, May 9, 2019

Eureka County initially opposed AB 30. We were able to come to center on the amendment that was considered and adopted by the Assembly Committee on Natural Resources, Agriculture, and Mining at their work session on April 10. We remain neutral as long as AB 30 stays as intended when passed by the Assembly committee on April 10.

We do not believe the Second Reprint of AB 30 that is in front of Senate Natural Resources fully aligns with the amendment we were able to live with. The Second Reprint of AB 30 appears to move away from placing the burden on applicants to first, do everything possible to avoid conflicts with existing rights **before** ever pursuing approval of an application or seeking avoidance of conflicts through a monitoring, management, and mitigation plan (3M plan). Applicants must have done the work to avoid conflicts, either through the 3 three best management practices (BMPs) in subsection 2 (a), (b) and (c) or through a proposed 3M plan, **before** the application is pursued for action, not sometime during the application consideration process. The language now reads that the 3 BMPs of water appropriation would only occur **after** an application has first been considered in some way by the State Engineer and then the applicant has been requested by the State Engineer to make “a reasonable effort” to avoid conflicts outside of 3M plans.

In subsection 2, the State Engineer must first consider the application and then send it back to the applicant to follow subsection 2 (a), (b) and (c). If this process does not avoid conflicts, the again send the applicant back to develop a 3M plan. Then a “public hearing” is held to consider the 3M plan, which could be different than the evidentiary hearing related to protested applications. This multi-step process could undermine due process and efficient and clear opportunity to be heard by applicants and protestants.

The Second Reprint also has what has been stated as conforming language that would amend various statutes throughout NRS 533 and NRS 534. We believe that much of this conforming language is against the intent of the first amendment – to avoid conflicts. Many of the statutes to be amended for conformance could be read that 3M plans are for elimination of conflicts, not avoidance of conflicts. Why amend statutes related to identified conflicts when AB 30 is intended to avoid **potential** conflicts in the first place?

We have received a commitment from the State Engineer’s office and Department of Conservation and Natural Resources to work with us to get the language right to get back to the intent and process in the first amended AB 30 as passed by the Assembly committee. We welcome getting back to middle on this and commit ourselves to that.