AB 30

Madame Chair and Members of the Committee, I am Kyle Roerink, Executive Director of the Great Basin Water Network.

I want to start off by saying that we are testifying in neutral in hopes that we can continue a working dialogue with DCNR and other stakeholders, some of whom have grave concerns about this bill and are close allies in our fight to stop the SNWA's 300-mile, $15.5 billion pipeline.

I also want to say thank you to all of you who have opened your doors to us and listened.

Now I want to take some time to express some concerns about possible interpretations of the bill in certain sections. What many of us agreed to in the Assembly Natural Resources is not what came drafted out of LCB. So here is where we would like to see come changes.

But we must say one thing: As is currently the case under the law, if a conflict exists a state engineer must not grant a permit. That foundation of our water law cannot change. What we want to do is give private parties an avenue to avoid conflicts before they put water to beneficial use.

Section 1 of the bill contains substantive new provisions for NRS regarding avoidance of potential conflicts by giving applicants the option to avoid conflicts by changing the application, reaching private agreements with holders of existing rights, and using 3M plans. Section 1's intent was to ensure that a state engineer cannot eliminate a conflict but rather avoid conflicts.

That is a good thing.

But the inclusion of conforming language in Section 3, Subsection 2 of the bill is unacceptable because it implies that section 1 of the bill allows conflicts, whereas the express language and intent of section 1 of the bill is to describe a few methods by which ***any potential conflict definitely will be avoided***.

This is language that would erode the foundations of Nevada water law, jeopardizing senior rights and the environment.

Section 4:
Section 4 sub 5 could be interpreted in a way that raises some concern. The issue is that we understand section 1 as still requiring that any potential conflict be avoided. That clearly seems correct, given the substantial way that section 1 was been edited in response to our demands. Assuming that this understanding of the meaning of section 1 is correct, there is no need whatsoever for this particular instance of the conforming language.

Section 8:
The inclusion of the basic conforming language in section 8 of the bill could give rise to some general concern just because this section amends NRS 533.515's reference to the entire range of provisions from NRS 533.324 to NRS 533.450.

The intent in this section of the act is not to amend those other sections but just to add the new provisions with section of this bill to the list of provisions included.

Section 10:
In subsection 5 of section 10 of this bill the conforming language does present some concern because it is written in a way that could be interpreted as implying that the mere existence of a 3M plan under section 1 of the bill ends the need for inquiry or evaluation regarding the lowering of the water level at the point of diversion of a prior appropriator. I don't think that is what was intended; rather the intent probably was to indicate that so long as the rights or protectable interests of the prior appropriator or well owner can be satisfied under such a 3M plan, then the permit can be granted.

We are happy to answer any questions. But again, we want to stress that we believe that the concerns of stakeholders must be addressed for this to move forward.

AB62

I am Kyle Roerink, executive director of the Great Basin Water Network, we are neutral on AB62 in an attempt to consider a working dialogue with DCNR.

We support the intent of the bill. It is admirable that DCNR and the Division want to tackle this issue and ensure that water is held captive by entities looking to speculate. We also know that communities need flexibility to put water to beneficial use. But we have concerns.

Section 2 Sub 3 a and Sub 3 b are avenues for entities to hold water hostage.

Sub 3 a gives an entity an easy avenue to unnecessarily hang onto water. it allows an applicant with an approved water right to get a potentially unlimited extension to the time limit for constructing the necessary works or putting the water to the intended beneficial use if there is any kind of state, federal, local, or tribal government approval or consent that the applicant hasn't yet gotten or maybe can't get.

Such a provision can allow an entity to indefinitely defer any action to actually construct the project or put the water to use as was the basis for an approved application.

In Sub 3 b, if an entity is pushing an untenable, unfeasible, and potentially illegal project and that project is tied up in court, that project will keep its rights if it is in court indefinitely.

So I must ask, if the point is to put constraints on suspensions or extensions, why are we creating loopholes to get around the ceilings being proposed?

Thank you.