
ASSEMBLY BILL NO. 387—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE JOINT INTERIM STANDING
COMMITTEE ON NATURAL RESOURCES)

MARCH 23, 2023

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to water. (BDR 48-338)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to water; revising provisions relating to groundwater basins; requiring the State Engineer to consider the best available science when rendering decisions; revising provisions relating to the appropriation of underground water; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, upon receipt of a petition signed by not less than 40 percent
2 of the appropriators of record in any particular groundwater basin or portion
3 thereof, the State Engineer is required to designate the basin for administration if
4 the findings of the State Engineer determine that administration would be justified.
5 The State Engineer may also designate a basin where no petition is received if,
6 following a public hearing, the State Engineer determines that administration of the
7 basin is justified. To designate a basin, the State Engineer must enter an official
8 order describing the boundaries of the basin by legal subdivision as nearly as
9 possible. (NRS 534.030) **Sections 2 and 8** of this bill define the term “groundwater
10 basin” or “basin” to mean one or more groundwater basins that are designated by
11 the State Engineer and administered as a single source and supply of water for
12 administration in accordance with existing law. **Sections 4 and 9** of this bill make
13 conforming changes to indicate the proper placement of **sections 2 and 8**,
14 respectively, in the Nevada Revised Statutes. **Section 7** of this bill makes a
15 conforming change to remove a duplicative definition.

16 Existing law declares that it is the policy of this State to encourage the State
17 Engineer to consider the best available science in rendering decisions concerning
18 the available surface and underground sources of water in this State. (NRS
19 533.024) **Sections 3 and 5** of this bill remove this provision from the legislative



20 declaration and instead require the State Engineer to consider the best available
21 science.

22 Existing law provides that all underground waters within the boundaries or the
23 State, subject to all existing rights to the use thereof, are subject to appropriation for
24 beneficial use under the laws of this State. (NRS 534.020) **Section 10** of this bill
25 provides that the appropriation of underground waters is subject to all existing
26 rights regardless of where the points of diversion are located, and if the State
27 Engineer finds that a sufficient hydrologic connection exists, regardless of whether
28 the points of diversion are located in separate basins.

29 Under existing law, the State Engineer is required to determine whether there is
30 unappropriated water in an affected area and may issue permits for a well only if
31 the determination is affirmative. (NRS 534.110) Existing law prohibits the State
32 Engineer from issuing a permit to appropriate water under certain circumstances,
33 including, without limitation, if there is no unappropriated water or where the
34 proposed use or change conflicts with existing rights or with protectable interests or
35 threatens to prove detrimental to the public interest. (NRS 533.370) **Sections 6 and**
36 **13** of this bill require the State Engineer, in determining whether there is
37 unappropriated water, to consider whether the permit would conflict with existing
38 rights or threaten to prove detrimental to the public interest. **Sections 11 and 12** of
39 this bill make conforming changes to revise certain internal references.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 533 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Groundwater basin” or “basin” has the meaning*
4 *ascribed to it in section 8 of this act.*

5 **Sec. 3.** *The State Engineer shall consider the best available*
6 *science in rendering decisions concerning the surface and*
7 *underground sources of water in this State.*

8 **Sec. 4.** NRS 533.005 is hereby amended to read as follows:
9 533.005 As used in this chapter, unless the context otherwise
10 requires, the words and terms defined in NRS 533.007 to 533.023,
11 inclusive, *and section 2 of this act* have the meanings ascribed to
12 them in those sections.

13 **Sec. 5.** NRS 533.024 is hereby amended to read as follows:

14 533.024 The Legislature declares that:

15 1. It is the policy of this State:

16 (a) To encourage and promote the use of effluent, where that use
17 is not contrary to the public health, safety or welfare, and where that
18 use does not interfere with federal obligations to deliver water of the
19 Colorado River.

20 (b) To recognize the importance of domestic wells as
21 appurtenances to private homes, to create a protectable interest in
22 such wells and to protect their supply of water from unreasonable
23 adverse effects which are caused by municipal, quasi-municipal or
24 industrial uses and which cannot reasonably be mitigated.



1 (c) ~~[(c) To encourage the State Engineer to consider the best~~
2 ~~available science in rendering decisions concerning the available~~
3 ~~surface and underground sources of water in Nevada.~~

4 ~~—(d)]~~ To encourage and promote the use of water to prevent or
5 reduce the spread of wildfire or to rehabilitate areas burned by
6 wildfire, including, without limitation, through the establishment of
7 vegetative cover that is resistant to fire.

8 ~~[(e)]~~ (d) To manage conjunctively the appropriation, use and
9 administration of all waters of this State, regardless of the source of
10 the water.

11 2. The procedures in this chapter for changing the place of
12 diversion, manner of use or place of use of water, and for
13 confirming a report of conveyance, are not intended to have the
14 effect of quieting title to or changing ownership of a water right and
15 that only a court of competent jurisdiction has the power to
16 determine conflicting claims to ownership of a water right.

17 **Sec. 6.** NRS 533.370 is hereby amended to read as follows:

18 533.370 1. Except as otherwise provided in this section and
19 NRS 533.0241, 533.345, 533.371, 533.372 and 533.503, the State
20 Engineer shall approve an application submitted in proper form
21 which contemplates the application of water to beneficial use if:

22 (a) The application is accompanied by the prescribed fees;

23 (b) The proposed use or change, if within an irrigation district,
24 does not adversely affect the cost of water for other holders of water
25 rights in the district or lessen the efficiency of the district in its
26 delivery or use of water; and

27 (c) The applicant provides proof satisfactory to the State
28 Engineer of the applicant's:

29 (1) Intention in good faith to construct any work necessary to
30 apply the water to the intended beneficial use with reasonable
31 diligence; and

32 (2) Financial ability and reasonable expectation actually to
33 construct the work and apply the water to the intended beneficial use
34 with reasonable diligence.

35 2. Except as otherwise provided in subsection 10, where there
36 is no unappropriated water in the proposed source of supply, where
37 the groundwater that has not been committed for use has been
38 reserved pursuant to NRS 533.0241 or where its proposed use or
39 change conflicts with existing rights, *including, without limitation,*
40 *the existing rights of holders of permits, claimants of vested rights*
41 *or the existing rights associated with any hydrologically connected*
42 *surface water or groundwater* or with protectable interests in
43 existing domestic wells as set forth in NRS 533.024, or threatens to
44 prove detrimental to the public interest, the State Engineer shall
45 reject the application and refuse to issue the requested permit. If a



1 previous application for a similar use of water within the same basin
2 has been rejected on those grounds, the new application may be
3 denied without publication.

4 3. In addition to the criteria set forth in subsections 1 and 2, in
5 determining whether an application for an interbasin transfer of
6 groundwater must be rejected pursuant to this section, the State
7 Engineer shall consider:

8 (a) Whether the applicant has justified the need to import the
9 water from another basin;

10 (b) If the State Engineer determines that a plan for conservation
11 of water is advisable for the basin into which the water is to be
12 imported, whether the applicant has demonstrated that such a plan
13 has been adopted and is being effectively carried out;

14 (c) Whether the proposed action is environmentally sound as it
15 relates to the basin from which the water is exported;

16 (d) Whether the proposed action is an appropriate long-term use
17 which will not unduly limit the future growth and development in
18 the basin from which the water is exported; and

19 (e) Any other factor the State Engineer determines to be
20 relevant.

21 4. Except as otherwise provided in this subsection and
22 subsections 6 and 10 and NRS 533.365, the State Engineer shall
23 approve or reject each application within 2 years after the final date
24 for filing a protest. The State Engineer may postpone action:

25 (a) Upon written authorization to do so by the applicant.

26 (b) If an application is protested.

27 (c) If the purpose for which the application was made is
28 municipal use.

29 (d) In areas where studies of water supplies have been
30 determined to be necessary by the State Engineer pursuant to
31 NRS 533.368.

32 (e) Where court actions or adjudications are pending, which may
33 affect the outcome of the application.

34 (f) In areas in which adjudication of vested water rights is
35 deemed necessary by the State Engineer.

36 (g) On an application for a permit to change a vested water right
37 in a basin where vested water rights have not been adjudicated.

38 (h) Where authorized entry to any land needed to use the water
39 for which the application is submitted is required from a
40 governmental agency.

41 (i) On an application for which the State Engineer has required
42 additional information pursuant to NRS 533.375.

43 5. If the State Engineer does not act upon an application in
44 accordance with subsections 4 and 6, the application remains active
45 until approved or rejected by the State Engineer.



1 6. Except as otherwise provided in this subsection and
2 subsection 10, the State Engineer shall approve or reject, within 6
3 months after the final date for filing a protest, an application filed to
4 change the point of diversion of water already appropriated when
5 the existing and proposed points of diversion are on the same
6 property for which the water has already been appropriated under
7 the existing water right or the proposed point of diversion is on real
8 property that is proven to be owned by the applicant and is
9 contiguous to the place of use of the existing water right. The State
10 Engineer may postpone action on the application pursuant to
11 subsection 4.

12 7. If the State Engineer has not approved, rejected or held a
13 hearing on an application within 7 years after the final date for filing
14 a protest, the State Engineer shall cause notice of the application to
15 be republished pursuant to NRS 533.360 immediately preceding
16 the time at which the State Engineer is ready to approve or reject the
17 application. The cost of the republication must be paid by the
18 applicant. After such republication, a protest may be filed in
19 accordance with NRS 533.365.

20 8. If a hearing is held regarding an application, the decision of
21 the State Engineer must be in writing and include findings of fact,
22 conclusions of law and a statement of the underlying facts
23 supporting the findings of fact. The written decision may take the
24 form of a transcription of an oral ruling. The rejection or approval of
25 an application must be endorsed on a copy of the original
26 application, and a record must be made of the endorsement in the
27 records of the State Engineer. The copy of the application so
28 endorsed must be returned to the applicant. Except as otherwise
29 provided in subsection 11, if the application is approved, the
30 applicant may, on receipt thereof, proceed with the construction of
31 the necessary works and take all steps required to apply the water to
32 beneficial use and to perfect the proposed appropriation. If the
33 application is rejected, the applicant may take no steps toward the
34 prosecution of the proposed work or the diversion and use of
35 the public water while the rejection continues in force.

36 9. If a person is the successor in interest of an owner of a water
37 right or an owner of real property upon which a domestic well is
38 located and if the former owner of the water right or real property on
39 which a domestic well is located had previously filed a written
40 protest against the granting of an application, the successor in
41 interest must be allowed to pursue that protest in the same manner
42 as if the successor in interest were the former owner whose interest
43 he or she succeeded. If the successor in interest wishes to pursue the
44 protest, the successor in interest must notify the State Engineer in a
45 timely manner on a form provided by the State Engineer.



1 10. The provisions of subsections 1 to 9, inclusive, do not
2 apply to an application for an environmental permit or a temporary
3 permit issued pursuant to NRS 533.436 or 533.504.

4 11. The provisions of subsection 8 do not authorize the
5 recipient of an approved application to use any state land
6 administered by the Division of State Lands of the State Department
7 of Conservation and Natural Resources without the appropriate
8 authorization for that use from the State Land Registrar.

9 12. As used in this section, "domestic well" has the meaning
10 ascribed to it in NRS 534.350.

11 **Sec. 7.** NRS 533.438 is hereby amended to read as follows:

12 533.438 1. Except as otherwise provided in subsection 4, if
13 an appropriation of groundwater pursuant to a permit to appropriate
14 groundwater results in the transfer to and beneficial use of water in a
15 county in this State other than the county in which the water is
16 appropriated or in another state, the county of origin may impose a
17 fee of \$10 per acre-foot per year on the transfer.

18 2. A county of origin shall not impose a fee pursuant to
19 subsection 1 without the prior approval of the State Engineer. The
20 county of origin shall notify the State Engineer in writing of its
21 intent to impose the fee. The State Engineer shall review the notice
22 of intent to impose the fee to determine:

23 (a) Whether the appropriation of groundwater pursuant to the
24 permit specified in subsection 1 results in a transfer to and beneficial
25 use of water in a county in this State other than the county of origin
26 or in another state; and

27 (b) The amount of water, if any, that is:

28 (1) Subject to the proposed fee because of that transfer and
29 beneficial use; or

30 (2) Not subject to the proposed fee pursuant to subsection 4.

31 3. Within 30 days after reviewing the notice of intent to impose
32 the fee, the State Engineer shall send a written notice to the county
33 of origin that includes the results of his or her review. If the State
34 Engineer determines that the appropriation of groundwater pursuant
35 to the permit results in a transfer to and beneficial use of water in a
36 county in this State other than the county of origin or in another
37 state, the State Engineer shall include in the notice the amount of
38 water that is subject to the proposed fee. The county may, upon such
39 a determination, impose the fee on the transfer.

40 4. A fee may not be imposed pursuant to this section on water
41 that is appropriated and beneficially used pursuant to a permit to
42 appropriate groundwater which is issued for a point of diversion and
43 a place of beneficial use in the county of origin and which, after the
44 water is diverted and beneficially used, is discharged or migrates



1 into a county in this State other than the county of origin or into
2 another state.

3 5. All money collected from a fee imposed pursuant to this
4 section must be deposited in a trust fund for the county. The
5 principal and interest of the trust fund may be used by the county
6 only for the purposes of economic development, health care and
7 education.

8 6. For the purposes of this section, if a basin includes land
9 lying in more than one county, each county any part of whose land
10 is included is a county of origin to the extent of the proportionate
11 amount of water transferred from it. The State Engineer shall
12 determine the respective proportions.

13 7. As used in this section ~~f~~:

14 ~~—(a) A “basin” is one designated by the State Engineer for the~~
15 ~~purposes of chapter 534 of NRS.~~

16 ~~—(b) “Origin”], “origin” means the place where water is taken~~
17 ~~from underground.~~

18 **Sec. 8.** Chapter 534 of NRS is hereby amended by adding
19 thereto a new section to read as follows:

20 *“Groundwater basin” or “basin” means one or more*
21 *groundwater basins designated by the State Engineer pursuant to*
22 *NRS 534.030 which are administered as a single source and*
23 *supply of water by the State Engineer in accordance with the*
24 *provisions of this chapter and chapter 533 of NRS.*

25 **Sec. 9.** NRS 534.010 is hereby amended to read as follows:

26 534.010 1. As used in this chapter, unless the context
27 otherwise requires, the words and terms defined in NRS 534.0105 to
28 534.0175, inclusive, *and section 8 of this act* have the meanings
29 ascribed to them in those sections.

30 2. As used in this chapter, the terms “underground water” and
31 “groundwater” are synonymous.

32 **Sec. 10.** NRS 534.020 is hereby amended to read as follows:

33 534.020 1. *Any appropriation of underground waters within*
34 *the boundaries of this State is subject to all existing rights to the*
35 *use thereof, regardless of where the respective points of diversion*
36 *are located and, if the State Engineer finds that a sufficient*
37 *hydrologic connection exists, regardless of whether the respective*
38 *points of diversion are located in separate basins.*

39 2. All underground waters within the boundaries of the State
40 belong to the public, and, subject to all existing rights to the use
41 thereof ~~f~~ *as set forth in subsection 1*, are subject to appropriation
42 for beneficial use only under the laws of this State relating to the
43 appropriation and use of water and not otherwise.

44 ~~f~~ 3. It is the intention of the Legislature, by this chapter, to
45 prevent the waste of underground waters and pollution and



1 contamination thereof and provide for the administration of the
2 provisions thereof by the State Engineer, who is hereby empowered
3 to make such rules and regulations within the terms of this chapter
4 as may be necessary for the proper execution of the provisions of
5 this chapter.

6 **Sec. 11.** NRS 534.037 is hereby amended to read as follows:

7 534.037 1. In a basin that has been designated as a critical
8 management area by the State Engineer pursuant to subsection ~~7~~ 8
9 of NRS 534.110, a petition for the approval of a groundwater
10 management plan for the basin may be submitted to the State
11 Engineer. The petition must be signed by a majority of the holders
12 of permits or certificates to appropriate water in the basin that are on
13 file in the Office of the State Engineer and must be accompanied by
14 a groundwater management plan which must set forth the necessary
15 steps for removal of the basin's designation as a critical
16 management area.

17 2. In determining whether to approve a groundwater
18 management plan submitted pursuant to subsection 1, the State
19 Engineer shall consider, without limitation:

- 20 (a) The hydrology of the basin;
- 21 (b) The physical characteristics of the basin;
- 22 (c) The geographic spacing and location of the withdrawals of
23 groundwater in the basin;
- 24 (d) The quality of the water in the basin;
- 25 (e) The wells located in the basin, including, without limitation,
26 domestic wells;
- 27 (f) Whether a groundwater management plan already exists for
28 the basin; and
- 29 (g) Any other factor deemed relevant by the State Engineer.

30 3. Before approving or disapproving a groundwater
31 management plan submitted pursuant to subsection 1, the State
32 Engineer shall hold a public hearing to take testimony on the plan in
33 the county where the basin lies or, if the basin lies in more than one
34 county, within the county where the major portion of the basin lies.
35 The State Engineer shall cause notice of the hearing to be:

36 (a) Given once each week for 2 consecutive weeks before the
37 hearing in a newspaper of general circulation in the county or
38 counties in which the basin lies.

39 (b) Posted on the Internet website of the State Engineer for at
40 least 2 consecutive weeks immediately preceding the date of the
41 hearing.

42 4. The decision of the State Engineer on a groundwater
43 management plan may be reviewed by the district court of the
44 county pursuant to NRS 533.450.



1 5. An amendment to a groundwater management plan must be
2 proposed and approved in the same manner as an original
3 groundwater management plan is proposed and approved pursuant
4 to this section.

5 **Sec. 12.** NRS 534.090 is hereby amended to read as follows:

6 534.090 1. Except as otherwise provided in this section,
7 failure for 5 successive years after April 15, 1967, on the part of the
8 holder of any right, whether it is an adjudicated right, an
9 unadjudicated right or a right for which a certificate has been issued
10 pursuant to NRS 533.425, and further whether the right is initiated
11 after or before March 25, 1939, to use beneficially all or any part of
12 the underground water for the purpose for which the right is
13 acquired or claimed, works a forfeiture of both undetermined rights
14 and determined rights to the use of that water to the extent of the
15 nonuse.

16 2. If the records of the State Engineer or any other documents
17 obtained by or provided to the State Engineer indicate 4 or more
18 consecutive years of nonuse of all or any part of a water right which
19 is governed by this chapter:

20 (a) The State Engineer shall notify the owner of the water right,
21 as determined in the records of the Office of the State Engineer, by
22 registered or certified mail of the nonuse and that the owner has 1
23 year after the date of the notice of nonuse in which to use the water
24 right beneficially and to provide proof of such use to the State
25 Engineer or apply for relief pursuant to subsection 3 to avoid
26 forfeiting the water right.

27 (b) If, after 1 year after the date of the notice of nonuse pursuant
28 to paragraph (a), proof of resumption of beneficial use is not filed in
29 the Office of the State Engineer, the State Engineer shall, unless the
30 State Engineer has granted a request to extend the time necessary to
31 work a forfeiture of the water right, send a final notice to the owner
32 of the water right, as determined in the records of the Office of the
33 State Engineer, by registered or certified mail, that the water right is
34 held for forfeiture. If the owner of the water right, within 30 days
35 after the date of such final notice, fails to file the required proof of
36 resumption of beneficial use or an application for an extension of
37 time to prevent forfeiture, the State Engineer shall declare the right,
38 or the portion of the right not returned to beneficial use, forfeited.
39 The State Engineer shall send notice of the declaration of forfeiture,
40 by registered or certified mail, to the owner of record, as determined
41 in the records of the Office of the State Engineer, of the water right
42 that has been declared forfeited.

43 (c) If, after receipt of a notice of the declaration of forfeiture
44 pursuant to paragraph (b), the owner of record of the water right
45 fails to appeal the ruling in the manner provided for in



1 NRS 533.450, and within the time provided for therein, the
2 forfeiture becomes final. Upon the forfeiture of the water right, the
3 water reverts to the public and is available for further appropriation,
4 subject to existing rights.

5 3. The State Engineer may, upon the request of the holder of
6 any right described in subsection 1, extend the time necessary to
7 work a forfeiture under subsection 2 if the request is made before
8 the expiration of the time necessary to work a forfeiture. Except as
9 otherwise provided in subsection 4, the State Engineer may grant,
10 upon request and for good cause shown, any number of extensions,
11 but a single extension must not exceed 1 year. In determining
12 whether to grant or deny a request, the State Engineer shall, among
13 other reasons, consider:

14 (a) Whether the holder has submitted proof and evidence that
15 the holder is proceeding in good faith and with reasonable diligence
16 to resume use of the water beneficially for the purpose for which the
17 holder's right is acquired or claimed;

18 (b) The number of years during which the water has not been
19 put to the beneficial use for which the right is acquired or claimed;

20 (c) Any economic conditions or natural disasters which made
21 the holder unable to put the water to that use;

22 (d) Whether the water right is located in a basin within a county
23 under a declaration of drought by the Governor, United States
24 Secretary of Agriculture or the President of the United States;

25 (e) Whether the holder has demonstrated efforts to conserve
26 water which have resulted in a reduction in water consumption;

27 (f) Whether the water right is located in a basin that has been
28 designated as a critical management area by the State Engineer
29 pursuant to subsection ~~7~~ 8 of NRS 534.110;

30 (g) The date of priority of the water right as it relates to the
31 potential curtailment of water use in the basin;

32 (h) The availability of water in the basin, including, without
33 limitation, whether withdrawals of water consistently exceed the
34 perennial yield of the basin; and

35 (i) Any orders restricting use or appropriation of water in the
36 basin.

37 ➤ The State Engineer shall notify, by registered or certified mail,
38 the owner of the water right, as determined in the records of the
39 Office of the State Engineer, of whether the State Engineer has
40 granted or denied the holder's request for an extension pursuant to
41 this subsection. If the State Engineer grants an extension pursuant to
42 this subsection and, before the expiration of that extension, proof of
43 resumption of beneficial use or another request for an extension is
44 not filed in the Office of the State Engineer, the State Engineer shall
45 send a final notice to the owner of the water right, by registered or



1 certified mail, that the water right will be declared forfeited if the
2 owner of the water right fails to file the required proof of
3 resumption of beneficial use or an application for an extension of
4 time to prevent forfeiture within 30 days after the date of the final
5 notice. If the owner of the water right fails to file the required proof
6 of resumption of beneficial use or an application for an extension of
7 time to prevent forfeiture within 30 days after the date of such final
8 notice, the State Engineer shall declare the water right, or the
9 portion of the right not returned to beneficial use, forfeited.

10 4. If the State Engineer grants an extension pursuant to
11 subsection 1 in a basin:

12 (a) Where withdrawals of groundwater consistently exceed the
13 perennial yield of the basin; or

14 (b) That has been designated as a critical management area by
15 the State Engineer pursuant to subsection ~~7~~ 8 of NRS 534.110,
16 ↪ a single extension must not exceed 3 years, but any number of
17 extensions may be granted to the holder of such a right.

18 5. The failure to receive a notice pursuant to subsection 2 or 3
19 does not nullify the forfeiture or extend the time necessary to work
20 the forfeiture of a water right.

21 6. A right to use underground water whether it is vested or
22 otherwise may be lost by abandonment. If the State Engineer, in
23 investigating a groundwater source, upon which there has been a
24 prior right, for the purpose of acting upon an application to
25 appropriate water from the same source, is of the belief from his or
26 her examination that an abandonment has taken place, the State
27 Engineer shall so state in the ruling approving the application. If,
28 upon notice by registered or certified mail to the owner of record
29 who had the prior right, the owner of record of the prior right fails to
30 appeal the ruling in the manner provided for in NRS 533.450, and
31 within the time provided for therein, the alleged abandonment
32 declaration as set forth by the State Engineer becomes final.

33 **Sec. 13.** NRS 534.110 is hereby amended to read as follows:

34 534.110 1. The State Engineer shall administer this chapter
35 and shall prescribe all necessary regulations within the terms of this
36 chapter for its administration.

37 2. The State Engineer may:

38 (a) Require periodical statements of water elevations, water
39 used, and acreage on which water was used from all holders of
40 permits and claimants of vested rights.

41 (b) Upon his or her own initiation, conduct pumping tests to
42 determine if overpumping is indicated, to determine the specific
43 yield of the aquifers and to determine permeability characteristics.

44 3. The State Engineer shall determine whether there is
45 unappropriated water in the area affected and may issue permits



1 only if the determination is affirmative. *In determining whether*
2 *there is unappropriated water in the area affected, the State*
3 *Engineer shall, in accordance with NRS 533.370, consider*
4 *whether the proposed use will:*

5 (a) *Conflict with existing rights, including, without limitation,*
6 *the existing rights:*

7 (1) *Of holders of permits;*

8 (2) *Of claimants of vested rights; and*

9 (3) *Associated with any hydrologically connected surface*
10 *water and groundwater; or*

11 (b) *Prove detrimental to the public interest in the area affected.*

12 4. The State Engineer may require each applicant to whom a
13 permit is issued for a well:

14 (a) For municipal, quasi-municipal or industrial use; and

15 (b) Whose reasonably expected rate of diversion is one-half
16 cubic foot per second or more,

17 ➔ to report periodically to the State Engineer concerning the effect
18 of that well on other previously existing wells that are located within
19 2,500 feet of the well.

20 ~~4.~~ 5. It is a condition of each appropriation of groundwater
21 acquired under this chapter that the right of the appropriator relates
22 to a specific quantity of water and that the right must allow for a
23 reasonable lowering of the static water level at the appropriator's
24 point of diversion. In determining a reasonable lowering of the static
25 water level in a particular area, the State Engineer shall consider the
26 economics of pumping water for the general type of crops growing
27 and may also consider the effect of using water on the economy of
28 the area in general.

29 ~~5.~~ 6. This section does not prevent the granting of permits to
30 applicants later in time on the ground that the diversions under the
31 proposed later appropriations may cause the water level to be
32 lowered at the point of diversion of a prior appropriator, so long as
33 any protectable interests in existing domestic wells as set forth in
34 NRS 533.024 and the rights of holders of existing appropriations
35 can be satisfied under such express conditions. At the time a permit
36 is granted for a well:

37 (a) For municipal, quasi-municipal or industrial use; and

38 (b) Whose reasonably expected rate of diversion is one-half
39 cubic foot per second or more,

40 ➔ the State Engineer shall include as a condition of the permit that
41 pumping water pursuant to the permit may be limited or prohibited
42 to prevent any unreasonable adverse effects on an existing domestic
43 well located within 2,500 feet of the well, unless the holder of the
44 permit and the owner of the domestic well have agreed to alternative
45 measures that mitigate those adverse effects.



1 ~~[6.]~~ 7. Except as otherwise provided in subsection ~~[7.]~~ 8, the
2 State Engineer shall conduct investigations in any basin or portion
3 thereof where it appears that the average annual replenishment to
4 the groundwater supply may not be adequate for the needs of all
5 permittees and all vested-right claimants, and if the findings of the
6 State Engineer so indicate, except as otherwise provided in
7 subsection ~~[9.]~~ 10, the State Engineer may order that withdrawals,
8 including, without limitation, withdrawals from domestic wells, be
9 restricted to conform to priority rights.

10 ~~[7.]~~ 8. The State Engineer:

11 (a) May designate as a critical management area any basin in
12 which withdrawals of groundwater consistently exceed the perennial
13 yield of the basin.

14 (b) Shall designate as a critical management area any basin in
15 which withdrawals of groundwater consistently exceed the perennial
16 yield of the basin upon receipt of a petition for such a designation
17 which is signed by a majority of the holders of certificates or
18 permits to appropriate water in the basin that are on file in the Office
19 of the State Engineer.

20 ↪ The designation of a basin as a critical management area pursuant
21 to this subsection may be appealed pursuant to NRS 533.450. If a
22 basin has been designated as a critical management area for at least
23 10 consecutive years, except as otherwise provided in subsection
24 ~~[9.]~~ 10, the State Engineer shall order that withdrawals, including,
25 without limitation, withdrawals from domestic wells, be restricted in
26 that basin to conform to priority rights, unless a groundwater
27 management plan has been approved for the basin pursuant to
28 NRS 534.037.

29 ~~[8.]~~ 9. In any basin or portion thereof in the State designated
30 by the State Engineer, the State Engineer may restrict drilling of
31 wells in any portion thereof if the State Engineer determines that
32 additional wells would cause an undue interference with existing
33 wells. Any order or decision of the State Engineer so restricting
34 drilling of such wells may be reviewed by the district court of the
35 county pursuant to NRS 533.450.

36 ~~[9.]~~ 10. If a court of competent jurisdiction orders the State
37 Engineer to restrict withdrawals to conform to priority rights or if
38 pursuant to subsection ~~[6-or]~~ 7 or 8 the State Engineer orders that
39 withdrawals be restricted to conform to priority rights, the State
40 Engineer must limit the restriction of withdrawals from a domestic
41 well to allow a domestic well to continue to withdraw 0.5 acre-feet
42 of water per year, which must be recorded by a water meter.

