

*Domestic and
Municipal Water Wells*



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DOMESTIC AND MUNICIPAL WATER WELLS

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SUMMARY OF RECOMMENDATIONS

THE STUDY OF DOMESTIC AND MUNICIPAL WATER WELLS (1999-2000) (A.B. 408)

This summary presents the recommendations approved by the Subcommittee to Study Domestic and Municipal Water Wells during the 1999-2000 legislative interim and at its final meeting on July 14, 2000, in Las Vegas, Nevada. The study was undertaken by a subcommittee of Nevada's Legislative Committee on Public Lands, through a Technical Advisory Committee appointed by Chairman Dean A. Rhoads (as authorized by Section 4 of Assembly Bill 408, Chapter 636, *Statutes of Nevada 1999*). The corresponding bill draft request (BDR) number follows each recommendation for legislation.

Recommendations for Legislation

1. Enact legislation to extend the "protectible interest" provisions of *Nevada Revised Statutes* (NRS) 533.024 to all domestic well owners in Nevada (BDR 48-309) by:
 - a. Removing the population limit from NRS 533.024, which restricts "protectible interest" to domestic well owners only in counties with populations less than 400,000 (thereby excluding domestic well owners in Clark County);
 - b. Eliminating the requirement that an applicant for a municipal, quasi-municipal, or industrial well, whose rate of diversion is one half cubic foot per second or more, must notify domestic well owners within 2,500 feet (including the stipulation that six such owners must be notified); and
 - c. Requiring the State Engineer to consider the "protectible interest" of domestic wells in reviewing applications for municipal, quasi-municipal, or industrial wells.
2. Authorize an interim study and report its findings to the 72nd Session of the Nevada Legislature, evaluating the statutes and regulations affecting water quality and water quantity (BDR R-310) by:
 - a. Determining if there are sufficient controls in place to protect groundwater quality, specifically with respect to individual wastewater disposal systems;
 - b. Evaluating the availability and adequacies of groundwater quality data; and
 - c. Examining the manner in which land division laws under Chapter 278 of *Nevada Revised Statutes* affect groundwater quality and quantity.

3. Enact legislation authorizing the State's Health Division, Department of Human Resources, to confirm with the State Engineer of the Division of Water Resources, State Department of Conservation and Natural Resources, that sufficient water rights exist before a public water system is expanded (BDR 40-308).

Recommendations for Subcommittee Action

4. Transmit a letter to the State's Real Estate Division, Department of Business and Industry, urging it, in consultation with the State Engineer, to ensure that information is provided to potential buyers of property served by domestic, community, and quasi-municipal wells, including consideration of appropriate disclosure procedures.
5. Transmit a letter to each of Nevada's 17 county commissions, requesting that they disseminate domestic well information as typically provided through the Cooperative Extension Service to their domestic well owners. The letter should include a bibliography of available information as compiled by the study's Technical Advisory Committee.

**REPORT TO THE 71ST SESSION OF THE NEVADA LEGISLATURE
BY THE SUBCOMMITTEE TO STUDY DOMESTIC
AND MUNICIPAL WATER WELLS**

I. INTRODUCTION

The Subcommittee to Study Domestic and Municipal Water Wells was created by Assembly Bill 408 (Chapter 636, *Statutes of Nevada 1999*), under the Legislative Committee on Public Lands. The Legislative Commission appointed the following members:

Senator Dean A. Rhoads, Chairman
Senator Maggie Carlton
Senator Jon C. Porter, Sr.
Assemblyman Douglas A. Bache
Assemblywoman Kathy A. Von Tobel

The Subcommittee was charged by A.B. 408 to conduct a study of issues related to residential, municipal, and quasi-municipal water wells in the State of Nevada, and to report its findings to the 71st Session of the Nevada Legislature. The measure further authorized the Subcommittee's chairman to appoint a Technical Advisory Committee (TAC) to assist it in conducting the study. Members of the advisory committee represented urban and rural areas, well owners, suppliers of municipal water, holders of water rights, and ratepayers, as stipulated by A.B. 408. (A copy of A.B. 408 is located in Appendix A.)

Members of the TAC were:

Roland Westergard, Carson City, Chairman
Jay Bingham, Las Vegas, Water Rights Holder
Kay Brothers, Las Vegas, Southern Nevada Water Authority, Resources Director
Paula Brown, North Las Vegas, Ratepayer
Don Dickson, Las Vegas, Well Owner
Tim Hafen, Pahrump, Well Owner
Bruce Hamilton, Las Vegas, Nevada Well Owners Association, Well Owner
John Hiatt, Las Vegas, Advisory Committee for Groundwater Management Chair
Ferron Konakis, Elko, Elko City Engineer
Mark Russell, Las Vegas, Mirage Resorts, Water Rights Holder*
Bjorn Selinder, Fallon, Churchill County Manager
R. Michael Turnipseed, Carson City, Division of Water Resources, State Engineer
Steve Walker, Reno, Washoe County Water Resources, Water Management Planner

*Served until his resignation from the TAC.

Staff services from the Legislative Counsel Bureau were provided by Linda Eissmann, Senior Research Analyst; Kimberly Marsh Guinasso, Principal Deputy Legislative Counsel; J. Randall Stephenson, Senior Deputy Legislative Counsel; Paige Clyde, Senior Research Secretary; and Kennedy, Senior Research Secretary.

A total of nine meetings were held throughout the study, including three meetings of the Subcommittee and six meetings of the TAC, all in Las Vegas. The Subcommittee met initially to appoint members of its advisory committee and hear initial public comment. It also directed the TAC to:

1. Review in detail the recent legislation of three bills passed by the Legislature in 1999 concerning domestic water wells (Assembly Bills 237, 347, and 408), and suggest any new language or legislation that should be introduced in the next legislative session.
2. Develop credible statistics on the number of domestic wells in the state and the number of temporary permits issued in Clark County.
3. Specifically identify issues relating to wells, for example, to identify both current and future problems.
4. Make recommendations to address these issues and problems.

The Subcommittee met a second time after the TAC's first meeting, to review the advisory committee's preliminary list of issues and to assess its progress. At this time, the advisory committee was further directed to expand its issues as necessary to other areas of the state and not focus only on issues relevant to Las Vegas.

The TAC held six monthly meetings from January through June 2000. In addition to TAC members, background information and recommendations were received from the public, the Nevada Well Owners Association, and representatives of the State's Divisions of Environmental Protection, Water Planning, and Water Resources of the Department of Conservation and Natural Resources; the Health Division within the Department of Human Resources; and the Real Estate Division of the Department of Business and Industry.

A total of 31 issues were raised either by members of the TAC or during public comment. Following initial explanation and discussion of each issue, several were combined and others were eliminated for a variety of reasons. In the end, 12 issues were selected for further consideration and possible action. Appendix B contains a list of the 31 issues with a brief summary of the advisory committee's discussion and action. The 12 issues retained for further consideration are identified and described later in this bulletin. They resulted in five specific TAC recommendations.

The advisory committee's chairman, Roland Westergard, presented the TAC's report and recommendations at the Subcommittee's final meeting on July 14, 2000. Following additional public comment, the Subcommittee adopted all five recommendations, three resulting in proposed legislation and two resulting in letters from the Subcommittee.

II. BACKGROUND

The impetus for the Study of Domestic and Municipal Water Wells was the existence of temporary permits issued to certain wells for domestic use in the Las Vegas Valley, and the active and potential revocation of those permits by the State Engineer as municipal water is made available.

In 1941, the State Engineer designated the Las Vegas Groundwater Basin as an area in which the groundwater was being depleted, in accordance with the authority defined in NRS 534.120. However, it was not until 1955 that the Legislature allowed the issuance of temporary permits (Senate Bill 104, Chapter 212, *Statutes of Nevada 1955*), and the State Engineer began issuing them that year (although the first permit was not revoked until 1972). The intent of the temporary permits was to eventually shift the dependence of new and existing development away from groundwater and onto Colorado River water when it became available through the Southern Nevada Water Project.

During the period 1945 to 2000, the Southern Nevada Water Authority (SNWA) estimates that groundwater levels in the Las Vegas Valley dropped from about 50 feet in some locations, to almost 200 feet in others. Currently, the State Engineer estimates that 72,000 acre-feet of water is being pumped from the Las Vegas Valley, outpacing the natural groundwater recharge of 35,000 to 50,000 acre-feet. (This does not include the recharge program begun in 1989 by the SNWA, which takes Colorado River water during off-peak times and puts it into the ground through recharge wells. From 1990 to 1998, water levels across the valley benefited from the artificial recharge program by as much as 50 feet in some areas.)

The first temporary permit was revoked by the State Engineer on January 1, 1972. In 1992, temporary permits ceased to be issued with three exceptions:

1. Small commercial wells that would take less water than a well for domestic use;
2. Homeowners who were refiled for an application where a developer had allowed a permit to be cancelled; and
3. Applicants who began the development process prior to March 23, 1992.

Permit revocations continued after 1992 until the passage of A.B. 408 in 1999. This measure limited the State Engineer's ability to revoke any more permits unless three conditions are met:

1. The water line must be within 180 feet from an existing well;
2. A financial package must be made available to pay not more than 85 percent of the connection and capital improvement costs; and
3. The well needs to be redrilled or is in need of repairs requiring the use of a well-drilling rig.

As of June 2000, temporary permits for approximately 109,900 acre-feet of water have been revoked with about 14,736 acre-feet of water remaining under temporary permit in the Las Vegas Valley.

III. WATER WELLS LEGISLATION OF THE 1999 LEGISLATIVE SESSION AND THE STATUS OF IMPLEMENTATION

Three measures were enacted by the 1999 Legislature relating to domestic water wells. As directed by the Subcommittee, the TAC reviewed the status of each bill and considered the need for new legislation or language in its deliberation of the issues raised throughout the study. The following is a summary of these measures and their status. (A copy of A.B. 408 is located in Appendix A. Copies of A.B. 237 and A.B. 347 are found in Appendix C.)

A. Assembly Bill 237

Assembly Bill 237 (Chapter 456, *Statutes of Nevada 1999*) expands the authorized activities that may receive funds from the state's grant program for assisting public water systems. The bill authorizes the Board for Financing Water Projects to issue grants for capital improvements and water conservation to certain water systems. Water conservation projects include piping or lining irrigation canals; recovering or recycling wastewater or tailwater; irrigation scheduling; measuring or metering water use; improving the efficiency of irrigation operations; and improving the efficiency of the operation of a facility for water storage. In addition, these grants may be issued to eligible recipients in a designated water basin to assist in paying costs when owners of domestic wells or wells on temporary permits connect to municipal water systems (the connections costs can be as much as \$20,000 per household). The bill limits these grants, however, to projects involving wells which were drilled on or before October 1, 1999.

(Note: Eligible recipients are defined in Section 2 as "a political subdivision of this state, including without limitation, a city, county, unincorporated town, water authority, conservation district, irrigation district, water district or water conservancy district.")

Further, the bill expands general obligation bonding capacity for the overall grant program from \$40 million to \$50 million. The measure also allows the money in the fund to be used to defray, in whole or part, the costs of administering the fund and the expenses of the board.

Status:

- The Division of Water Planning solicited Letters of Interest from potential grant applicants, to determine the types of projects which might be considered and how best to structure the forthcoming regulations. The division also researched and reviewed similar programs and related regulations in other states. The Board for Financing Water Projects is considering this information, and will develop regulations for adoption in the *Nevada Administrative Code*. These regulations will likely define the application, project selection, and payment processes. However, no funds have been awarded to date. Following reassignment of the duties of the Division of Water Planning, responsibility for A.B. 237 was given to the Division of Environmental Protection (further reassignment to the Health Division is being considered and may take place at a later date).

B. Assembly Bill 347

Assembly Bill 347 (Chapter 468, *Statutes of Nevada 1999*) authorizes the Southern Nevada Water Authority to establish a deferred payment program to assist property owners in paying the cost of abandoning their wells and connecting to a public water system. Money to be repaid by the property owner under the program is due and payable upon the sale or transfer of the real property and is secured by a lien upon the property.

This measure also authorizes the Southern Nevada Water Authority to operate a project for recharge or underground storage of water for the benefit of well owners in the Las Vegas Valley Groundwater Basin. If the authority operates such a project, it may assess holders of water rights an annual fee of not more than \$27 per acre-foot, and may assess owners of domestic wells a flat annual fee of not more than \$27. The money collected may be used to prepare cost-benefit analyses and to conduct activities for the management of the artesian basin and protection of the aquifer.

In addition, the bill adds \$3 per acre-foot and \$3 per domestic well annually to the groundwater management program and specifically allocates this money to assist the owners of private wells in existence before October 1, 1999, if they are required to abandon their wells and connect to a public water system.

Finally, A.B. 347 deletes a provision adopted in 1997 that would have terminated the groundwater management program for the Las Vegas Valley groundwater basin upon the recommendation of the Advisory Committee for the Management of Groundwater.

Status:

- The recharge program is being implemented and fees have been established. Recharge wells are currently under construction.

- In 1998 and 1999, only municipal well pumpers were billed. However, beginning with the first quarter of 2000, domestic and quasi-municipal well pumpers were also billed. Response to the fee program has been good, and the SNWA is continuing to verify the well database.
- Criteria for grants programs (paid for by the \$3 fee previously described) were adopted by the SNWA Board, a quarterly newsletter to the well community was developed, and a Public Information Fair was held in December 1999, with over 300 attendees. However, no grants have been awarded.

C. Assembly Bill 408

Assembly Bill 408 (Chapter 636, *Statutes of Nevada 1999*) establishes the conditions under which the State Engineer can revoke a temporary well permit or deny the deepening or repair of a domestic well, thereby requiring the well owner to connect with a municipal water supply. These conditions apply in a basin in which temporary permits are issued. Currently, only the Las Vegas Valley groundwater basin meets this definition.

The conditions prescribed in the bill are as follows:

1. The property on which the well is located must be within 180 feet of a municipal water line;
2. The well must need to be redrilled or have repairs made that require the use of a well-drilling rig; and
3. The well users must be offered financial assistance to help them connect to the municipal water line. This assistance is up to 85 percent of the connection costs and is to be provided by an appropriate local agency with access to funding for this assistance. In Las Vegas, it is anticipated that the Southern Nevada Water Authority will fill this role. The Authority must also cover the costs of plugging the abandoned well.

These conditions “sunset” on July 1, 2005.

The bill also adds a new section to Chapter 534 of *Nevada Revised Statutes* requiring the State Engineer to notify the county recorder when he approves a temporary permit and when a domestic well is drilled after October 1, 1999. The purpose is to establish a notification that will be tied to the deed for the property, so that a purchaser of the property will know his property is served by a domestic well or a temporary permit that is subject to revocation.

In addition, the measure directs the Legislative Committee on Public Lands to conduct a review during the interim of issues relating to residential, municipal, and quasi-municipal wells. The results of that review are to be provided to the 2001 Nevada Legislature.

Status:

- A Memorandum of Understanding was adopted between the State Engineer and the SNWA to establish a process for the revocation of well permits and for information sharing between the two entities.
- The SNWA developed a Financial Assistance Program, which provides 85 percent of the eligible costs for mandatory and voluntary connections. If the well user qualifies for “public assistance” as defined in statute, SNWA will pay up to 100 percent of the eligible costs. Further, SNWA approved its Abandoned Well Program and plugs and abandons wells at no cost to the well user(s).
- Finally, the State Engineer is notifying county recorders as required under A.B. 408, and the Technical Advisory Committee has completed its review of well issues, resulting in several recommendations.

IV. ISSUES CONSIDERED AND DISCUSSION OF RECOMMENDATIONS

As previously mentioned, 31 issues were initially considered and discussed during the Study of Domestic and Municipal Water Wells. The TAC considered each issue with the following criteria in mind:

- Is this an exclusive issue?
- Should this issue be expanded?
- What public comment addresses this issue?
- What will be the priority of this issue?
- Should this issue be eliminated because it is outside the scope of the study and its advisory committee?

Several of the 31 issues were eliminated for a variety of reasons by the TAC. Many others were grouped under common subject headings, as necessary. For a detailed list of the issues and their fate, please refer to Appendix B.

In the end, the TAC agreed to retain 12 issues for further consideration and possible action. However, not all of them resulted in recommendation. After further deliberation, the advisory committee voted to make five recommendations to the Subcommittee, three for new legislation and two for other Subcommittee action. The remainder of the issues did not result in recommendations for new legislation or action, but the advisory committee voted to provide the Subcommittee with specific comment and information on three of them.

The Subcommittee voted to adopt all five recommendations made by the TAC.

Following are the 12 issues deliberated by the advisory committee, including a summary of each issue and the advisory committee's recommendation or conclusion. For additional information about the testimony given, please refer to the meeting minutes and the "Report of the Technical Advisory Committee to the Subcommittee to Study Domestic and Municipal Water Wells," available from the Legislative Counsel Bureau's Research Library.

A. Recommendations for Bill Draft Requests

Copies of the bill draft requests (BDRs) to address the following issues are found in Appendix D. (Please note that the second issue resulted in two recommendations.)

Protectible Interest

- **Some people question what type of "protectible interest" in domestic wells is contemplated through the statement of policy in *Nevada Revised Statutes (NRS) 533.024*, and whether this provision should be extended to all domestic well owners.**

Nevada Revised Statutes 533.024 states that "It is the policy of this state, in a county whose population is less than 400,000, to recognize the importance of domestic wells as appurtenances to private homes, to create a protectible interest in such wells and to protect their supply of water from unreasonable adverse effects caused by municipal, quasi-municipal or industrial uses."

The advisory committee heard considerable testimony on this issue, regarding both the 400,000 population cap and the notification requirements, which state that an applicant for municipal, quasi-municipal or industrial wells must notify each domestic well owner within 2,500 feet of the proposed well. These provisions were added to statute as a result of Senate Bill 19 (Chapter 631, *Statutes of Nevada 1993*) enacted by the 1993 Legislature.

The TAC also discussed what is meant by "protectible interest." There was general agreement that it means protection of the domestic well's water supply from unreasonable adverse impacts. Advisory committee members similarly agreed that it is not intended to limit the State Engineer's ability to regulate and manage the state's water resources.

The TAC recommended removing the 400,000 population limit, eliminating the notification requirements, and requiring the State Engineer to consider the "protectible interest" of domestic wells when considering well applications. This recommendation would modify NRS 533.024, 533.360, 533.370, and 534.110. (BDR 48-309)

Relationship of Water Quality and Water Quantity

- **It is believed that although water quantity and quality are naturally linked, the relevant statutory and regulatory provisions are not logically brought together or cross-referenced.**

Testimony revealed that statutes and regulations affecting water quality and quantity are not always compatible and appropriately linked. This can be significant because in some areas, well problems are the result of water quality concerns rather than issues relating to water quantity.

The TAC agreed that this is an important issue statewide, and will likely become more important in the future, especially as growth continues in areas served by septic systems. Testimony from the Division of Environmental Protection and the Health Division about the water quality programs administered by these agencies focused on a general lack of data on groundwater quality for individual well systems, and particularly the impact of septic systems on groundwater.

Further, it was pointed out that there is no statutory requirement for the Health Division to verify with the State Engineer that sufficient water rights exist before a public water system is expanded.

It was also noted that current land division laws under Chapter 278 of the *Nevada Revised Statutes* are problematic insofar as they require review and approval of subdivisions by the Division of Environmental Protection, the Division of Water Resources (State Engineer), and the Health Division. Parcel maps and other types of land division, however, do not require similar approvals. Testimony indicated that many counties have adopted ordinances requiring the water right to be attached to new parcel creations, but that existing parcels are exempt from this requirement.

Two recommendations address this issue:

1. An interim study should be authorized to: (a) determine if there are sufficient controls in place to protect groundwater quality, specifically with respect to individual wastewater disposal systems; (b) evaluate the availability and adequacies of groundwater quality data; and (c) examine the manner in which land division laws under Chapter 278 of *Nevada Revised Statutes* affect groundwater quality and quantity. A new Advisory Committee should be appointed to this interim study with representation from the State Engineer's office, the Division of Environmental Protection, the Health Division, a county manager, a rural county planning department, an urban county planning department, residential well owners, and residential housing developments typically served by domestic wells and septic tanks. (BDR R-310)

2. Legislation is also suggested that would authorize the Health Division to confirm with the State Engineer that sufficient water rights exist before a public water system is expanded. (BDR 40-308)

B. Subcommittee Letters

Copies of the letters sent by the Subcommittee to address the following issues are located in Appendix E. (Please note that the latter two “education” issues are addressed by a single recommendation.)

Disclosure of Well Information to Prospective Buyers of Real Estate

- **There is a concern that prospective buyers of property served by existing wells on temporary permits are unaware that the permits can be revoked, and should be notified before they decide to purchase the property.**

Several alternatives were considered to address this issue, including: (a) inspection and certification of the well prior to sale; (b) educational training for real estate agents so they may adequately inform prospective buyers; (c) modification of the Real Property Disclosure Form or comparable form required by the State’s Real Estate Division; and (d) distribution of an educational pamphlet to prospective buyers, with basic information about water wells and Nevada water law. There was concern that the method chosen must be required in any sale, including those by owner (in which no real estate agent is involved), and that the information be provided in such a way that it is not buried among multiple forms used in real estate transactions.

Testimony by the Real Estate Division indicated support for a two-pronged approach to this issue: (a) modification of the Real Property Disclosure Form, in consultation with the State Engineer and other appropriate individuals; and (b) an education outreach effort to both consumers and real estate agents.

A letter from the Subcommittee was recommended, urging the Real Estate Division, in consultation with the State Engineer, to ensure that information is provided to potential buyers of property served by domestic, community, and quasi-municipal wells, including consideration of appropriate disclosure procedures.

Education of Well Owners

- **A list of existing water well information would be helpful to determine how best to educate current domestic well owners, and to identify needs for additional information.**

There is concern that many well owners are unfamiliar with groundwater dynamics, water quality protection, and well management, and are similarly unaware that their

permits may be subject to revocation. The TAC recognized that information on domestic wells tends to be geographically related, and the best distribution of information should come from local governments to address well issues specific to their counties.

The TAC recommended a letter from the Subcommittee to each of Nevada's 17 county commissions, requesting that they disseminate domestic well information as typically provided through the Cooperative Extension Service to their domestic well owners. The letter should include a bibliography of available information (provided by the Technical Advisory Committee). This recommendation addresses both education issues.

- **There is a potential conflict between domestic wells and larger production wells in that new domestic well owners often do not drill deep enough, causing their wells to go dry when larger, nearby wells enter their production cycle.**

The State Engineer has received complaints that are contractual between homeowners and well drillers. For example, homeowners new to the state often do not know how deep to drill their wells. A well driller may hit water and be told by the homeowner to go another five or ten feet and stop. Once a nearby irrigation well goes into production, the water table often drops, causing the homeowner's well to go dry. The State Engineer recommends that wells are drilled 50 feet into the water table.

Discussion on this issue was similar to the previous education issue. Members of the TAC agreed that well owners need to be educated about groundwater dynamics, water quality protection, and well management. Further, because water quality and well management differ by geographic location, the TAC concluded that each county should take responsibility for distributing appropriate information to its well owners.

A single recommendation was made to address both education issues. Please refer to the recommendation described for the previous issue.

C. Additional Information Provided by the Technical Advisory Committee to the Subcommittee

While specific recommendations were not made for the following three issues, the advisory committee agreed to provide additional information to the Subcommittee.

Notification of Connection Costs

- **The costs involved with hook-up to municipal water can be high, and are often unknown to the well owner. There is concern that the affidavit process does not currently include a notification of costs.**

Testimony indicated that well owners are often surprised by the costs associated with hook-up to municipal water systems. As a result, the State Engineer agreed to add language to the affidavit he files with the county recorder, indicating that there are significant costs involved in hooking up to municipal water and that proper water authorities should be contacted for estimates of those costs. Because this issue will be addressed directly by the State Engineer (following discussion by the TAC), no legislation or further action was recommended at this time.

Replenishment Districts

- **Rather than hooking up all domestic wells to municipal water as it becomes available, some would contend that it may be more cost-effective to artificially recharge the water table to benefit all well owners within the area of recharge influence.**

The TAC discussed the scenario in which it may be more cost-effective to artificially recharge the water table to benefit well owners in a given area, rather than hooking them up to municipal water. Consequently, “Replenishment District” legislation may be an issue for future consideration on a basin-by-basin case. No legislation or further action was recommended at this time.

Water Conservation

- **Some people believe that certain water policies do not encourage water conservation. Specifically, they contend that the statutory maximum limit of 1,800 gallons per day for an exemption as a domestic well should be lowered, the requirement to hook up to a public water system should be further evaluated, and there should be a comparison of service from municipal systems and domestic wells.**

Concern was expressed that the statutory maximum limit of 1,800 gallons per day for domestic wells should be lowered to promote water conservation. The TAC recognized the ability of local jurisdictions to set a figure not to exceed 1,800 gallons per day for domestic well use, and concluded that this authority is sufficient. While the advisory committee agreed that no legislation or further action was recommended at this time, it chose to bring this issue to the attention of the Subcommittee.

(Note: The statutory limit of 1,800 gallons per day was raised from 1,440 gallons per day in 1971 [Assembly Bill 325, Chapter 448, Statutes of Nevada 1971]. Testimony at the 1971 hearings on A.B. 325 indicated that the limit was raised to permit small landowners, with large gardens and domestic animals, to draw additional water for such purposes.)

D. Other Issues Considered

Following consideration and discussion of the following four issues, the advisory committee voted not to recommend any changes to current policy or statute at this time.

Revocation of Temporary Permits

- **Some people believe that the statutory authority is inappropriate which allows revocation of temporary permits when water from a public supplier is at the property even though an adequate supply of groundwater is available to sustain the private well.** (Reference: NRS 534.120)

Some have questioned if it is sound policy to assume that if a person does not have a water right and is on a well, requiring him to hook up to an available municipal system is best. For example, if the integrity of the well's casing is the problem and not the depth to water, it can be required that the well be abandoned and the home be connected to a municipal supply. Further, there are instances in which a group of lots on a cul-de-sac share a well, but because not all of the lots have been developed and have diverted the water to beneficial use, the permits for the undeveloped lots can be canceled.

The advisory committee heard testimony from SNWA that in the Las Vegas Valley, 80 percent of the revoked permits are a result of a dropping water table, while only 20 percent are due to the need for well repairs or replacement. The TAC generally concluded that revocation is necessary for successful groundwater management. It further agreed that it is within the statutory authority of the State Engineer to issue temporary permits where groundwater is being depleted, and to revoke those permits when a municipal water supply is available.

Revision of Cost Threshold Identified in Statute

- **It has been suggested that change in Nevada's water law is necessary due to the cost of hooking up to municipal water supplies. There is concern that increasing costs are placing an unfair burden on well owners.** (Reference: NRS 534.180)

The State Engineer is currently authorized (under NRS 534.180) to require the plugging of certain wells only if the charge for making the connection to municipal water is less than \$200. Although concern was expressed that this dollar amount should be raised, testimony revealed that the State Engineer has not forced anyone off an existing well that was currently in use. As a result, the TAC voted not to recommend changes to the statute.

Sunset Provision of A.B. 408

- **The Nevada Well Owners Association would like to see the five-year sunset provision for well protection removed from A.B. 408, thereby making permanent the conditions under which the State Engineer can revoke a temporary permit.**

Section 2 of A.B. 408 expires on July 1, 2005. This section provides that the State Engineer may revoke a temporary permit issued for residential use only if: (a) the distance from the property line to the pipes of the proposed water sources is not more than 180 feet; (b) the well providing water under temporary permit needs to be re-drilled or have repairs that require the use of a well-drilling rig; and (c) the permit holder will be offered financial assistance to pay not more than 85 percent of the cost of connection fees and capital improvements needed for the connection. He may also limit the depth of a domestic well, prohibit repairs, and require the use of water obtained from a water district or municipality in an area in which he has issued temporary permits, if the same conditions are met.

Section 2 also provides that in a basin served by a water authority with a groundwater management program, the permit cannot be revoked unless the water authority abandons and plugs the well and pays the associated costs. If such a groundwater program does not exist, the person must abandon and plug his well in accordance with the rules of the State Engineer.

The Nevada Well Owners Association argued that the conditions that must be met before a revocation can be ordered offer protection to well owners, and should be continued. They believe that if those provisions end, well permits could be revoked without regard to the location of the municipal water supply and without funding assistance. Others argued, however, that A.B. 408 was passed in 1999 and its usefulness has not been fully determined. They expressed their belief that revocation of temporary permits is necessary over the long term to protect the groundwater basin.

The TAC voted not to recommend removal of the sunset provision in A.B. 408, stating that it is premature to determine the usefulness of the conditions, and noting that the Groundwater Management Program and Financial Assistance Guidelines will not end in five years.

Minimum Grant Award

- **The Nevada Well Owners Association supports modified language that would set a reasonable minimum amount of funding available from the 85 percent grant.**

The Nevada Well Owners Association expressed concern that while A.B. 408 authorizes grants of not more than 85 percent toward the costs of connecting to municipal water, it establishes no minimum grant award. Representatives of the

SNWA explained that the Financial Assistance Guidelines were adopted by the SNWA Board of Directors on November 18, 1999. For both mandatory and voluntary connections, the Board approved funding at the full 85 percent. In the event that money is not available to pay the 85 percent in the future, a minimum grant of 50 percent is guaranteed by the Board. Additionally, SNWA reported that the mechanism is in place so that if there is no financial assistance available, owners of wells that fail would be allowed to do what they need to maintain their wells, including re-drilling or relocating.

Representatives of the Nevada Well Owners Association argued that if SNWA has guaranteed a minimum 50 percent funding, it should be placed in statute as a legally binding mechanism.

The TAC requested a letter from SNWA reaffirming its Financial Assistance Guidelines, which it provided (Appendix F). Members of the advisory committee commented that the letter is sufficient guarantee of the 50 percent minimum grant award. Other members questioned the appropriateness of making a local funding policy a statewide issue.

As a result, the TAC voted not to recommend a statutory requirement for a minimum grant amount.

V. CONCLUDING REMARKS

The participation of many people, agencies, and organizations has been crucial to the success of this study and the thoroughness of the deliberations that took place. The expertise and dedication of the advisory committee members (who served on their own time without compensation) merit special recognition. The Subcommittee wishes to express its sincere appreciation to them for their work.

Appreciation is also expressed to the many state agencies who provided insight into the statutes, regulations, and programs they administer, and to the many well owners who faithfully attended every meeting and offered insightful public comment.

Copies of the minutes from all Subcommittee and TAC meetings are available through the Legislative Counsel Bureau's Web site (www.leg.state.nv.us) and through its Research Library (775/684-6827). The "Report of the Technical Advisory Committee to the Subcommittee to Study Domestic and Municipal Water Wells" is also available for review at the Research Library.

VI. APPENDICES

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APPENDIX A

Assembly Bill 408
(Chapter 636, *Statutes of Nevada 1999*)

CHAPTER 636

AN ACT relating to water; establishing the circumstances under which certain temporary permits for the appropriation of ground water may be revoked; restricting the authority of the state engineer to limit the depth of or prohibit the repair of certain wells; requiring the state engineer to file certain notices with the county recorder; revising the method for calculating the fee charged to a user of water for the beautification of the City of North Las Vegas; requiring the legislative committee on public lands to conduct a study of water wells; and providing other matters properly relating thereto.

[Approved June 11, 1999]

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

Section 1. Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

If the state engineer issues a temporary permit pursuant to NRS 534.120 or if a well for domestic use is drilled in an area in which he has issued such a temporary permit, he shall file a notice with the county recorder of the county in which the permit is issued or the well is drilled. The notice must include a statement indicating that, if and when water can be furnished by an entity such as a water district or a municipality engaged in furnishing water to the inhabitants of the designated area:

- 1. A temporary permit may be revoked;*
- 2. The owner of a domestic well may be prohibited from deepening or repairing the well; and*
- 3. The owner of the property served by the well may be required to connect to this water source at his own expense.*

Sec. 2. NRS 534.120 is hereby amended to read as follows:

534.120 1. Within an area that has been designated by the state engineer, as provided for in this chapter where, in his judgment, the ground water basin is being depleted, the state engineer in his administrative capacity is herewith empowered to make such rules, regulations and orders as are deemed essential for the welfare of the area involved.

2. In the interest of public welfare, the state engineer is authorized and directed to designate preferred uses of water within the respective areas so designated by him and from which the ground water is being depleted, and in acting on applications to appropriate ground water he may designate such preferred uses in different categories with respect to the particular areas involved within the following limits: Domestic, municipal, quasi-municipal, industrial, irrigation, mining and stock-watering uses and

any uses for which a county, city, town, public water district or public water company furnishes the water.

3. **[The] Except as otherwise provided in subsection 5, the** state engineer may:

(a) Issue temporary permits to appropriate ground water which can be limited as to time and which may , **except as limited by subsection 4,** be revoked if and when water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.

(b) Deny applications to appropriate ground water for any **[purpose] use** in areas served by such an entity.

(c) Limit **the** depth of domestic wells.

(d) Prohibit the drilling of wells for domestic use, as defined in NRS **534.013 and 534.0175 , [and 534.180,]** in areas where water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.

4. **The state engineer may revoke a temporary permit issued pursuant to subsection 3 for residential use, and require a person to whom ground water was appropriated pursuant to the permit to obtain water from an entity such as a water district or a municipality engaged in furnishing water to the inhabitants of the designated area, only if:**

(a) The distance from the property line of any parcel served by a well pursuant to a temporary permit to the pipes and other appurtenances of the proposed source of water to which the property will be connected is not more than 180 feet;

(b) The well providing water pursuant to the temporary permit needs to be redrilled or have repairs made which require the use of a well-drilling rig; and

(c) The holder of the permit will be offered financial assistance to pay not more than 85 percent, as determined by the entity providing the financial assistance, of the cost of the local and regional connection fees and capital improvements necessary for making the connection to the proposed source of water. In a basin that has a water authority that has a ground water management program, the state engineer shall not revoke the temporary permit unless the water authority abandons and plugs the well and pays the costs related thereto. If there is not a water authority in the basin that has a ground water management program, the person shall abandon and plug his well in accordance with the rules of the state engineer.

5. **The state engineer may, in an area in which he has issued temporary permits pursuant to subsection 3, limit the depth of a domestic well pursuant to paragraph (c) of subsection 3 or prohibit repairs from being made to a well, and may require the person proposing to deepen or repair the well to obtain water from an entity such as a water district or a municipality engaged in furnishing water to the inhabitants of the designated area, only if:**

(a) The distance from the property line of any parcel served by the well to the pipes and other appurtenances of the proposed source of water to which the property will be connected is not more than 180 feet;

(b) The deepening or repair of the well would require the use of a well-drilling rig; and

(c) The person proposing to deepen or repair the well will be offered financial assistance to pay not more than 85 percent, as determined by the entity providing the financial assistance, of the cost of the local and regional connection fees and capital improvements necessary for making the connection to the proposed source of water. In a basin that has a water authority that has a ground water management program, the state engineer shall not prohibit the deepening or repair of a well unless the water authority abandons and plugs the well and pays the costs related thereto. If there is not a water authority in the basin that has a ground water management program, the person shall abandon and plug his well in accordance with the rules of the state engineer.

6. For good and sufficient reasons the state engineer may exempt the provisions of this section with respect to public housing authorities.

Sec. 3. Section 2.280 of the charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 565, Statutes of Nevada 1997, at page 2758, is hereby amended to read as follows:

Sec. 2.280 Powers of city council: Provision of utilities.

1. Except as otherwise provided in subsection 3 and section 2.285, the city council may:

(a) Provide, by contract, franchise and public enterprise, for any utility to be furnished to the city for residents located [either] within or without the city.

(b) Provide for the construction and maintenance of any facilities necessary for the provision of all such utilities.

(c) Prescribe, revise and collect rates, fees, tolls and charges for the services, facilities or commodities furnished by any municipally operated or municipally owned utility or undertaking. Notwithstanding any provision of this charter to the contrary or in conflict herewith, no rates, fees, tolls or charges for the services, facilities or commodities furnished by any municipally operated or municipally owned utility or undertaking may be prescribed, revised, amended or altered, increased or decreased, without this procedure first being followed:

(1) There must be filed with the city clerk schedules of rates, fees, tolls or charges which must be open to public inspection, showing all rates, fees, tolls or charges which the city has established and which are in force at the time for any service performed or product furnished in connection therewith by any utility controlled and operated by the city.

(2) No changes may be made in any schedule so filed with the city clerk except upon 30 days' notice to the inhabitants of the city and a public hearing held thereon. Notice of the proposed change or changes must be given by at least two publications in a newspaper published in the city during the 30-day period before the hearing thereon.

(3) At the time set for the hearing on the proposed change, any person may appear and be heard and offer any evidence in support of or against the proposed change.

(4) Every utility operated by the city shall furnish reasonably adequate service and facilities, and the charges made for any service rendered or to be rendered, or for any service in connection therewith or incidental thereto, must be just and reasonable.

(d) Provide, by ordinance, for an additional charge to each *business* customer *and for each housing unit* within the city to which water is provided by a utility of up to 25 cents per month. If such a charge is provided for, the city council shall, by ordinance, provide for the expenditure of that money for any purpose relating to the beautification of the city.

2. Any charges due for services, facilities or commodities furnished by the city or by any utility operated by the city pursuant to this section is a lien upon the property to which the service is rendered and must be perfected by filing with the county recorder of Clark County of a statement by the city clerk stating the amount due and unpaid and describing the property subject to the lien. Each such lien must:

(a) Be coequal with the latest lien thereon to secure the payment of general taxes.

(b) Not be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(c) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

3. The city council:

(a) Shall not sell telecommunications service to the general public.

(b) May purchase or construct facilities for providing telecommunications that intersect with public rights of way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

4. Any information relating to the study conducted pursuant to subsection 3 must be maintained by the city clerk and made available for public inspection during the business hours of the office of the city clerk.

5. Notwithstanding the provisions of paragraph (a) of subsection 3, an airport may sell telecommunications service to the general public.

6. As used in this section:

(a) *“Housing unit” means a:*

(1) Single-family dwelling;

(2) Townhouse, condominium or cooperative apartment;

(3) Unit in a multiple-family dwelling or apartment complex; or

(4) Mobile home.

(b) “Telecommunications” has the meaning ascribed to it in 47 U.S.C. § 153(43), as that section existed on July 16, 1997.

~~(b)~~ (c) “Telecommunications service” has the meaning ascribed to it in 47 U.S.C. § 153(46), as that section existed on July 16, 1997.

Sec. 4. The legislative committee on public lands shall conduct a study of issues related to residential, municipal and quasi-municipal water wells in the State of Nevada and report its findings and recommendations to the 71st session of the Nevada legislature. The legislative commission shall appoint two additional senators and two additional assemblymen to the legislative committee on public lands for the purposes of this study. The chairman of the legislative committee on public lands shall appoint a technical advisory committee to assist in conducting the study with representation from urban and rural areas, well owners, suppliers of municipal water, holders of water rights, and ratepayers.

Sec. 5. 1. This section and sections 2 and 4 of this act become effective on July 1, 1999.

2. Sections 1 and 3 of this act become effective on October 1, 1999.

3. Section 2 of this act expires by limitation on July 1, 2005.

APPENDIX B

List and Description of 31 Issues Considered

LIST OF ISSUES CONSIDERED BY TECHNICAL ADVISORY COMMITTEE

The following 31 specific issues were considered by the TAC and were raised either by its members or during public comment. Each issue was discussed and considered by the TAC, and where subject matter was similar, some issues were combined. The committee voted to accept 12 issues for further consideration and discussion.

The following is a summary of all 31 issues, the testimony or discussion that took place, and their fate. The name of the individual who raised the issue is noted in parentheses.

The first group of 18 issues was raised by members of the TAC at its first meeting on January 12, 2000. They were grouped and sometimes combined due to common subject matter.

Domestic Well Issues

- **There should be equal protection Chapter 533, of the Nevada Revised Statutes (NRS) with protectible property rights for well owners.** (Hamilton)

Explanation: Nevada Revised Statutes 533.024 states that “It is the policy of this state, in a county whose population is less than 400,000, to recognize the importance of domestic wells as appurtenances to private homes, to create a protectible interest in such wells and to protect their supply of water from unreasonable adverse effects caused by municipal, quasi-municipal or industrial uses.” Nevada Congressman Jim Gibbons submitted a letter urging revision of NRS 533.024 to extend the “protectible interest” to all well owners in Nevada.

Discussion: The committee heard considerable testimony on this issue, both regarding the 400,000 population cap and the notification requirements which state that an applicant for municipal, quasi-municipal or industrial wells must notify each domestic well owner within 2,500 feet of the proposed well. These provisions were added to the statute following Senate Bill 19 (Chapter 631, *Statutes of Nevada*) enacted by the 1993 Legislature. A representative of Sierra Pacific Power (water purveyor servicing the Reno-Sparks area of Washoe County, Nevada), reported on how its policies address the practical application of the provisions of S.B. 19, questioned the scientific basis of the notification requirements, and suggested further review of those requirements.

Representatives of Congressman Gibbons’ office and the Nevada Well Owners Association supported extending “protectible interest” to all well owners in Nevada. They stated that Clark County residents do not get equal protection under the law and that a house has no property value without water servicing it.

Representatives of the Southern Nevada Water Authority opposed removal of the 400,000 population cap in NRS 533.024; citing impacts caused by draw downs between

domestic and quasi-municipal wells, and an apparent conflict which would provide “protectible interest” to domestic wells on temporary permits. Others opposing expansion of “protectible interest,” noted that these provisions have not benefited well owners in other parts of the state and would accomplish nothing by extending it to include Clark County.

The committee agreed on three basic alternatives: (a) the “no action” alternative; (b) rescission of the provisions of S.B. 19; or (c) specific modifications to NRS 533.024, 533.360, 533.370, and 534.110.

Action/Recommendation: Final action will be taken on this issue on June 22.

- **The statutory provision that domestic wells may use up to 1,800 gallons per day should be examined.** (Hafen)

Explanation: The State Engineer has never undertaken a survey of domestic well production. However, it is believed that most domestic wells do not pump 1,800 gallons per day. Nevertheless, the State Engineer has to recognize their right to do so.

Discussion: Members noted that unless there is some supervision and enforcement on domestic wells, the maximum daily limit of pumpage is almost irrelevant regardless of the statutory requirement. Further, individual jurisdictions such as counties, or towns with their own regional water planning, have the ability to assign a figure deemed appropriate to their areas up to and including 1,800 gallons per day.

The statutory limit of 1,800 gallons per day was raised from 1,440 gallons per day in 1971 (Assembly Bill 325, Chapter 448, *Statutes of Nevada 1971*). Testimony during the 1971 hearings on A.B. 325 indicated that the limit was raised to permit small landowners, with large gardens and domestic animals, to draw additional water for such purposes.

Action/Recommendation: The committee voted not to recommend changing the statutory limit, but to recognize the ability of local jurisdictions to set a figure not to exceed 1,800 gallons per day for domestic well use.

- **There is currently no incentive for conservation in Nevada water use.** (Hiatt)

Explanation: Currently, water must be used or the water right is lost. As a result, many holders of water rights waste water to maintain their water right. This takes away any incentive to conserve water.

Discussion: This issue was combined with the previous issue for a discussion of water conservation. Concern was expressed that the “use it or lose it” nature of current water law encourages wasteful water practices. It was generally agreed that while pumping water to retain water rights does exist in some instances, the economic reality is that such practices would ultimately force the farmer or well owner out of business.

Action/Recommendation: The committee voted not to recommend any change to Nevada water law.

- **Artificial groundwater recharge may be necessary in other areas of the state. Replenishment District legislation may be needed.** (Walker)

Explanation: Depending upon whether or not there are more or less domestic wells in the future, it may not make sense to hook up new wells without a recharge program.

Discussion: Members agreed that if private well owners are benefiting from a replenishment program, they should help to pay for it. A determination is needed of an economic benefit by recharging the aquifer versus hooking up to municipal wells. They further agreed that this is a complicated issue because the answers vary from basin-to-basin and would depend on who owned the water that could be used for recharge. A general statewide policy would be inappropriate. Rather, a basin-by-basin discussion and determination is necessary.

Action/Recommendation: The committee later voted not to make a recommendation, but rather to report that in the future, a groundwater replenishment district for domestic wells might be necessary on an individual basis.

Education Issues

- **There are conflicts between domestic wells and larger production wells that require notification to the domestic well owner.** (Turnipseed)

Explanation: The State Engineer is hearing complaints that are contractual between homeowners and well drillers. Homeowners who are new to the state do not know how deep to drill. A well driller will hit water and the homeowner tells him to go another five or ten feet and stop. Then an irrigation well goes into production nearby and drops the water table, causing the homeowner’s well to go dry. Domestic well owners need to be informed about how deep they should drill.

Discussion: A pamphlet was produced by the SNWA in cooperation with the State Engineer and the Clark County Conservation District. The committee agreed that a similar pamphlet would satisfy this issue if modified to address water wells statewide and if distributed to well owners statewide.

Action/Recommendation: One recommendation was made by the committee to address the combined education issues. Members of the TAC will prepare a bibliography of domestic well information available from the Cooperative Extension Service and will compile mailing lists of domestic, community, and quasi-municipal well owners. Members of the TAC will distribute this bibliography to well owners within their jurisdiction and will encourage others to do the same. Further, the TAC recommends that the Subcommittee urge the Cooperative Extension Service to renew its efforts in disseminating well information statewide.

- **Long-term education and dissemination of information is needed about water and the use of water wells in Nevada.** (Hiatt)

Explanation: Existing and potential water well owners need to be educated that water is a finite resource, there are no guarantees of what the result will be when you drill, and there are risks in drilling a well.

Discussion: Members of the TAC agreed to provide a mailing list of domestic water well owners within their jurisdictions, and to seek assistance from other areas to develop a comprehensive, statewide mailing list. It was agreed that a statewide pamphlet, such as the one described under the previous issue, should be distributed statewide. A member of the TAC also offered to investigate existing publications to determine if adequate information already exists and simply needs to be distributed to well owners. It was later determined that considerable information is available from the Cooperative Extension, and that along with a statewide publication similar to the one produced for southern Nevada, would be sufficient.

Action/Recommendation: Please refer to the previous issue and the action taken.

- **Water education, particularly of the media, is very important.** (Brown)

Explanation: Many people question why new development and new golf courses are being approved when people on domestic wells are losing their permits and the public is being told the water table is dropping. Residents and the media need to be educated about this issue to disseminate accurate information.

Discussion: The committee combined this issue with the other education issues previously described. Emphasis was placed on educating well owners rather than educating the media.

Action/Recommendation: Please refer to the previous issue and the action taken.

Notification/Temporary Permit Issues

- **State law should be changed so that the availability of water determines revocation of a well permit, not simply the passage of time and normal repairs to a functional well. People are losing access to groundwater due to the operation of state water law, not the condition of the water table. (Hamilton)**

Explanation: Is it sound policy to assume that if a person does not have a water right and is on a well, forcing him on to a municipal system is the best alternative? For example, if the integrity of the well's casing is the problem and not the water depth, the mere fact that a drilling rig will be needed to fix it mandates that the well be abandoned and the home be connected to a municipal supply.

Discussion: The committee heard testimony that in the Las Vegas Valley, 80 percent of the revoked permits are a result of a dropping water table, while only 20 percent are due to the need for well repairs or replacement. Members generally agreed that revocation is necessary for successful groundwater management, and is within the statutory authority of the State Engineer to issue temporary permits where groundwater is being depleted, and to revoke those permits when a municipal water supply is available.

Action/Recommendation: The TAC voted not to recommend any change to the State Engineer's ability to issue temporary permits, nor to recommend modification of his authority to require connection to municipal water when it becomes available.

- **Well permits should not be canceled on undeveloped lots. (Hamilton)**

Explanation: There are instances in which a group of lots on a cul-de-sac share a well, but not all of the lots have been developed and have diverted the water to beneficial use. As a result, the permits for the undeveloped lots are being canceled.

Discussion: This issue was combined with the previous issue for a general discussion about domestic wells and revocation of temporary permits. Members generally agreed that revocation is necessary for successful groundwater management. The State Engineer is within his statutory authority to issue temporary permits where groundwater is being depleted, and to revoke those permits when a municipal water supply is available.

Action/Recommendation: Please refer to the previous issue and the action taken.

- **Buyers should be aware of State law that authorizes revocation of well permits for domestic use.** (Hamilton)

Explanation: Real estate agents should be required to tell prospective buyers that temporary water well permits are revocable.

Discussion: The committee heard testimony that people are buying property with domestic wells, unaware that the wells are under temporary permit and can be revoked when municipal water becomes available. Several options were considered, including modification of the Real Property Disclosure Form or other appropriate form required by the State's Real Estate Division, training for real estate agents about this issue, certification of wells prior to sale, and distribution of a pamphlet to prospective buyers educating them about what it means to own a well and that wells in the Las Vegas Valley are under temporary permit. There was concern that the method chosen must be required in any sale, including those by owner (in which no real estate agent is involved), and that the information is provided in such a way that it is not buried among the multiple forms used in real estate transactions.

Action/Recommendation: The committee voted to recommend that the Legislature pass a resolution urging the Real Estate Division to ensure that an informative pamphlet is provided to prospective purchasers of property served by domestic, community, and quasi-municipal wells, prepared by or in consultation with the State Engineer's office.

Water Quality versus Quantity Issues

- **Water quality and water quantity are inherently linked. There may be a need for state water policy to ensure that the two are linked in statute.** (Selinder/Walker)

Explanation: There is a need to check the compatibility of public health and water law statutes. Is there a mandate to hook up to municipal water for public health reasons? In some areas (like Washoe County), the problem with wells is not the quantity of water but the quality. Statutes should be compatible or combined if possible.

Discussion: The committee agreed that this is an important issue statewide, with several members noting that there is evidence of environmental issues affecting domestic and municipal wells. Testimony from the Division of Environmental Protection and the Health Division about the water quality programs administered by both agencies focused on a general lack of data on groundwater quality for individual well systems, and particularly the impact of septic systems on groundwater. It was also noted that there is no statutory requirement for the Health Division to verify with the State Engineer that sufficient water rights exist before a public water system is expanded.

Action/Recommendation: Two recommendations were made to address this issue:

1. The TAC recommends that the Legislature direct an interim study to:
(a) determine if there are sufficient controls in place to protect groundwater quality, specifically with respect to individual wastewater disposal systems;
(b) evaluate the availability and adequacies of groundwater quality data; and
(c) examine the manner in which land division laws under NRS Chapter 278 affect groundwater quality and quantity. A new TAC should be appointed to this interim study with representation from the State Engineer's office, the Division of Environmental Protection, the Health Division, a County Manager, a rural county planning department, an urban county planning department, residential well owners, and residential housing developments typically served by domestic wells and septic tanks.
 2. The TAC further recommends legislation that would authorize the Health Division to confirm with the State Engineer that sufficient water rights exist before a public water system is expanded.
- **Private water companies may take the place of individual wells, making domestic wells less relevant.** (Hafen)

Explanation: There is a relationship between septic systems and the location of water wells, tying this issue into the issue of water quality versus quantity.

Discussion: This issue was combined with the previous issue to address water quality and quantity issues.

Action/Recommendation: Please refer to the previous issue and the action taken.

- **Individual well owners in Elko County are dealing with septic problems and the degradation of groundwater.** (Konakis)

Explanation: Like in other areas, increasing use of septic systems is impacting the groundwater quality in the Elko area.

Discussion: This issue was combined with the previous issue to address water quality and quantity issues.

Action/Recommendation: Please refer to the previous issue and the recommendations made.

Other Issues

- **The Prior Appropriation Doctrine should be examined to determine if it is sound water policy.** (Hamilton)

Explanation: If Nevada continues to solicit economic growth and other drains on water supply, perhaps water should go to where it is best used, and not simply to who had it first.

Discussion: In support of this issue, some members noted that conservation issues should not be ignored and that unlimited development without adequate water should be addressed. Others argued that delving into the concept of basic water law would not be a good utilization of the committee's time because Nevada's water law is sound.

Action/Recommendation: This issue was determined by the committee to be beyond the scope of its study. It was eliminated from further consideration.

- **There is a desire to maintain our "way of life" while accommodating the state's need to grow.** (Hamilton)

Explanation: There are competing pressures of individual water rights in the face of population growth. Water is being wasted to preserve water rights. Preserving the tradition of "use it or lose it" and "first in line, first in right" is more backward than forward thinking.

Discussion: The committee generally determined that attempts to change Nevada's basic water law were outside the intent of this study.

Action/Recommendation: This issue was determined by the committee to be beyond the scope of its study. It was eliminated from further consideration.

- **Nevada's groundwater law is very good. Before changing it, look at neighboring states for comparison.** (Brothers)

Explanation: While some would contend that Nevada's groundwater law should be changed to modify or eliminate the Prior Appropriation Doctrine, this type of water law is sound. Change may bring more problems than it is intended to solve.

Discussion: The committee heard testimony that other states are moving toward the Prior Appropriation Doctrine, having experienced problems with other water appropriation methods. In addition, where changes have been attempted, they have often resulted in more misuse than they were intended to solve.

Action/Recommendation: This issue was determined by the committee to be beyond the scope of its study. It was eliminated from further consideration.

- **Whether or not there is effective and informed oversight by the Clark County Commission over the Las Vegas Valley Water District as its Board of Directors should be looked into.** (Hamilton)

Explanation: The County Commissioners do not always know why certain activities take place, and are not sufficiently knowledgeable to make informed decisions. There should be some mechanism in place or standards that must be met to see to it that the Commissioners are accountable.

Discussion: There was general consensus that this is a parochial issue between the Clark County Commission and its citizens, and is not a statewide issue.

Action/Recommendation: This issue was believed by the committee to be beyond the scope of the Study of Domestic and Municipal Water Wells. It was eliminated from further consideration.

- **Water policies of the State need to be applicable over the long term.** (Hiatt)

Explanation: Water policies impact people, so mistakes made now will affect people in the future. The State Engineer must look over the long term for policy issues.

Discussion: Members discussed the State's policy for water management with some arguing that the State's overall water policies need to be forward looking so water sources are not depleted and the lives or activities of people in an area are not negatively affected. Others stated that it is inappropriate for the TAC to question the State's policy on how it manages its water. Specifically, it was argued that this issue deals with perennial yield determinations and "macro" state water policy, which are beyond the scope of this study.

Action/Recommendation: The committee voted to eliminate this issue from further consideration and discussion.

The second group of 13 issues was raised by members of the public either at the Subcommittee meeting on January 28, 2000, or the second TAC meeting on February 12, 2000. The name and association of the individual to whom the issue is attributed is shown in parentheses. Four of the 13 issues were retained by the committee for further consideration and discussion; all four were considered issues pertaining to "notification/temporary permits."

Notification/Temporary Permits Issues

- **Change in the water law is necessary due to the cost of hooking up to municipal water supplies. Increasing costs are placing an unfair burden on well owners.** (Robert Tretiak, Nevada Well Owners' Association)

Explanation: Currently, NRS 534.180 authorizes the State Engineer to require the plugging of a well drilled on or after July 1, 1981, at any time not sooner than one year after water can be furnished to the site by a political subdivision or public utility, but only if the charge for making the connection to the service is less than \$200.

Discussion: The committee heard testimony that the State Engineer had not forced anyone off of an existing well that was currently in use. Members also discussed water management policies and agreed that the connection cost in NRS 534.180 is irrelevant.

Action/Recommendation: The committee voted to retain this issue for further consideration. Following additional discussion, the committee voted not to recommend changes to NRS 534.180.

- **The five-year sunset provision should be removed from A.B. 408.** (Robert Tretiak, Nevada Well Owners' Association)

Explanation: Section 2 of A.B. 408 expires by act of limitation on July 1, 2005. This section provides that the State Engineer may revoke a temporary permit issued for residential use only if: (a) the distance from the property line to the pipes of the proposed water sources is not more than 180 feet; (b) the well providing water under temporary permit needs to be re-drilled or have repairs that require the use of a well-drilling rig; and (c) the permit holder will be offered financial assistance to pay not more than 85 percent of the cost of connection fees and capital improvements needed for the connection. He may also limit the depth of a domestic well, prohibit repairs, and require the use of water obtained from a water district or municipality in an area in which he has issued temporary permits, if the same conditions are met.

Section 2 also provides that in a basin served by a water authority with a groundwater management program, the permit cannot be revoked unless the water authority abandons and plugs the well and pays the associated costs. If such a groundwater program does not exist, the person must abandon and plug his well in accordance with the rules of the State Engineer.

Discussion: Representatives of the Nevada Well Owners' Association testified that the sunset provisions offer protection to well owners, and should be continued. If those provisions sunset, well permits could be revoked without regard to the location of the municipal water supply and without funding assistance. Others argued, however, that A.B. 408 was passed in 1999 and it is premature to change its provisions before any

usefulness could be determined. Revocation of temporary permits is necessary over the long term to protect the groundwater basin. Further, the funding assistance is in place and will not end in five years.

Action/Recommendation: This issue was retained by the TAC for further consideration. Following additional discussion, the committee voted not to recommend removal of the sunset provision in A.B. 408. Bruce Hamilton cast the only dissenting vote.

- **Modified language is needed to set a reasonable minimum amount of funding available from the 85 percent grant authorized in A.B. 408.** (Robert Tretiak, Nevada Well Owners' Association)

Explanation: There is concern that while A.B. 408 authorizes grants of not more than 85 percent toward the costs of connecting to municipal water, it establishes no minimum grant award.

Discussion: Representatives of the SNWA explained the Financial Assistance Guidelines adopted by the SNWA Board of Directors on November 18, 1999, and how these guidelines applied to mandatory and voluntary connections. For both types of connections, the Board approved funding at the full 85 percent. In the event that money is not available to pay the 85 percent at some future date, a minimum grant of 50 percent is guaranteed by the Board. A change to these guidelines would require an act by the Board. Representatives of the Nevada Well Owners' Association argued that if SNWA has guaranteed a minimum 50 percent funding, it should be placed in statute as a legally binding mechanism. Members of the committee commented that a recent letter submitted by the SNWA, reaffirming its commitment to the approved funding levels, is sufficient guarantee of the 50 percent minimum grant award. Other members questioned the appropriateness of making a local funding policy a statewide issue.

Action/Recommendation: The committee retained this issue for further consideration. Following additional discussion, the committee voted not to recommend a statutory requirement for a minimum grant amount. Bruce Hamilton cast the only dissenting vote.

- **Water well owners should be notified of the costs involved with hook-up. The affidavit process does not currently include notification of costs.** (Ray Preston, Nevada Well Owners Association)

Explanation: While the affidavit used by the State Engineer notifies new well owners that their permits are temporary, they often have little idea of the costs involved, which can be as much as \$20,000.

Discussion: Members of the committee agreed that well owners should be made aware of the connection costs, and anything that could be added to the affidavit would be helpful. However, these costs will vary from case to case, so no specific details are appropriate.

Action/Recommendation: This issue was retained by the TAC for further consideration. Following additional discussion, the TAC voted to report to the Subcommittee that the State Engineer should consider adding language to the affidavit which generally states that there will be significant costs involved with hook-up and appropriate water authorities should be contacted for estimates of these costs.

Other Issues

- **The affidavit used by the State Engineer is cumbersome. An alternative is needed to prevent a well driller from getting a notarized affidavit in emergencies.** (Robert Tretiak, Nevada Well Owners' Association)

Explanation: There is concern that the current affidavit is “over-reaching” the mandates of A.B. 408. Specifically, the signed affidavit requirement prior to work on a well would cause a hardship for people who are unable to obtain all relevant well owners' signatures.

Discussion: The committee heard testimony that A.B. 408 does not specify how well owners must be notified, and that the affidavit could be problematic in emergency situations where one owner on a community or quasi-municipal well is unavailable for signature. In such situations, emergency repairs could be delayed. However, the State Engineer's office reported that emergencies could be addressed on a case-by-case basis, by filing an “Intent to Drill” card. A waiver to eliminate the three-day wait can be requested and work to deepen a well can begin within a day. The committee concluded that a problem did not exist and that no solution was necessary.

Action/Recommendation: This issue was eliminated from further consideration.

- **Residential water well management is not a water conservation management problem. The Nevada Well Owners' Association believes the Water District is operating on an agenda to shut down all the residential well users in Clark County.** (Robert Tretiak, Nevada Well Owners' Association)

Explanation: It is believed that water well owners use 10 percent less water than their counterparts on municipal water systems. There is also a correlation between the summer months when the Water District is drawing down a significant portion from the aquifer and a 50-foot drop in the aquifer.

Discussion: Members of the committee stated that water conservation is an issue for everyone, including domestic water well owners, and there is a lack of hard data to support the assumption that well owners use less water than others. A recent study by the State Engineer's Las Vegas office found that water well owners might actually use as much or more water than those on municipal systems.

Action/Recommendation: This issue was eliminated from further consideration.

- **The Southern Nevada Water Authority should recharge the water they pull from the aquifer every year.** (Robert Tretiak, Nevada Well Owners' Association)

Explanation: The Las Vegas Valley Water District reports that they are recharging effectively what they draw from the aquifer, but the figures indicate they do not. The Water District should be required to recharge the 40,000 acre-feet they pull from the aquifer every year.

Discussion: Members of the committee argued that this issue would constitute a revocation of the SNWA's and Water District's water rights, which is beyond the ability of the TAC. The SNWA has some of the oldest water rights in the valley, and is not required to recharge the water it uses under these rights. Further, SNWA stated that the pumping and recharge figures are not equal, but are getting closer.

Action/Recommendation: This issue was eliminated from further consideration.

- **The State Engineer needs an Ombudsman to interface with the public on water well issues.** (Robert Tretiak, Nevada Well Owners' Association)

Explanation: It was suggested that an Ombudsman would be an effective means of assistance to the State Engineer, to take calls and respond to questions about laws and regulations concerning water wells.

Discussion: Representatives of the Nevada Well Owners' Association testified that due to the severity of water problems and issues needing the State Engineer's attention, an Ombudsman would serve as a lightning rod to field calls from well owners. Staff from the State Engineer's office responded that they could receive as many as 200 inquiries per day, but that the Las Vegas office could handle the calls from southern Nevada while staff in Carson City can respond to those from northern Nevada. The committee agreed that an Ombudsman might be needed in the future, depending upon the responses to A.B. 408 and the lifting of the sunset provisions, but that it did not appear to be a current problem needing attention at this time.

Action/Recommendation: This issue was eliminated from further consideration.

- **The Las Vegas Valley Water District should be under the jurisdiction of the Public Utilities Commission of Nevada.** (Ray Preston, Nevada Well Owners' Association)

Explanation: The Public Utilities Commission should preside over the Water District, consistent with the oversight of Sierra Pacific Power in the north.

Discussion: Members of the committee expressed concern that the Public Utilities Commission of Nevada did not have anything positive to contribute in terms of managing the Las Vegas Valley Water District. Further, it was noted that the SNWA and the Water District are two separate entities.

Action/Recommendation: This issue was eliminated from further consideration.

- **There is concern for the ecologic destruction of the Las Vegas Valley as a result of the maximum withdrawal of water from the Colorado River.** (Assemblyman Harry Mortenson)

Explanation: When the full allocation of Colorado River water is exhausted, Nevada will increase the usage of groundwater, resulting in further draw down of the aquifer and ecological impacts to the valley.

Discussion: Representatives of SNWA stated that all water users depend on higher water levels and assured the TAC that SNWA does not intend to allow the aquifer to drop precipitously. Once the maximum allocation of Colorado River water is achieved, there are other options available to access needed water. The SNWA is looking into those options now.

Action/Recommendation: This issue was eliminated from further consideration.

- **Local entities served by private utilities should be allowed to qualify for grant funds.** (Tom Boqu, Hydrogeologist, Nye County)

Explanation: Certain areas of the state are being served by private utilities, thereby making them ineligible from grant money that might help to address problems concerning groundwater.

Discussion: The committee questioned the eligibility requirements for grant funds under existing programs, and agreed that this is not a significant problem warranting attention at this time.

Action/Recommendation: This issue was eliminated from further consideration.

- **Water conservation should be mandated.** (Tom Boqu, Hydrogeologist, Nye County)

Explanation: In many areas, groundwater is the primary water supply to sustain existing and planned development. For locations such as Pahrump where there is no access to Colorado River water, the only water resources available are those within the hydrologic basin. Alternative supplies are desperately being sought, but water conservation must also be pursued.

Discussion: Committee members noted that in areas such as Washoe County, there are mandates in place requiring low flow toilets for new homeowners and lawn water restrictions, but water conservation is a generic term that does not carry specific meaning and should be made a local issue.

Action/Recommendation: This issue was eliminated from further consideration.

- **Legislation is needed to assist Pahrump in de-privatizing the public water supply system.** (Tom Boqu, Hydrogeologist, Nye County)

Explanation: There are constraints on Pahrump Valley in terms of water resources planning because there is no large single publicly owned water supply system. There are 20 or more individually owned water supply systems.

Discussion: No further discussion took place.

Action/Recommendation: The committee agreed that this issue is not within the scope of the study, and eliminated it from further consideration.

APPENDIX C

Assembly Bill 237 (Chapter 456, *Statutes of Nevada 1999*) and
Assembly Bill 347 (Chapter 468, *Statutes of Nevada 1999*)

Assembly Bill No. 237–Assemblymen Dini, de Braga and Hettrick

Joint Sponsors: Senators Amodei, McGinness and Jacobsen

CHAPTER 456

AN ACT relating to water; authorizing grants for certain costs associated with connections to municipal water systems and for certain improvements to conserve water; increasing the amount of general obligation bonds that the state board of finance may issue to provide the grants; and providing other matters properly relating thereto.

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

Section 1. NRS 349.980 is hereby amended to read as follows:

349.980 As used in NRS 349.980 to 349.987, inclusive, unless the context otherwise requires:

1. “Board” means the board for financing water projects created pursuant to NRS 349.957.

2. “Community water system” means a public water system which:

(a) Has 15 or more service connections; or

(b) Serves 25 or more persons,

at places which are intended for year-round occupancy.

3. “Costs of capital improvements to community water systems and nontransient water systems” means the costs traditionally associated with capital improvements to such systems and includes costs associated with the:

(a) Consolidation of existing systems; and

(b) Transfer and connection of a public water system to a system owned by a purveyor of water or a public utility.

4. “Fund” means the fund for grants ~~[to certain purveyors of water.]~~ *for water conservation and capital improvements to certain water systems.*

5. “Nontransient water system” means a public water system that regularly serves 25 or more of the same persons for more than 6 months per year, but which is not a community water system.

6. “Public water system” has the meaning ascribed to it in NRS 445A.840.

7. “Purveyor of water” means a political subdivision *of this state* engaged in the business of furnishing water, for compensation, to persons within the political subdivision.

Sec. 2. NRS 349.981 is hereby amended to read as follows:

349.981 *1.* There is hereby established a program to provide grants of money to ~~[purveyors]~~ :

(a) A purveyor of water to pay for costs of capital improvements to publicly owned community water systems and publicly owned nontransient water systems required or made necessary by the state board of health pursuant to NRS 445A.800 to 445A.955, inclusive, or made necessary by the Safe Drinking Water Act , ~~42~~ 42 U.S.C. §§ 300f et seq. , ~~D~~ and the regulations adopted pursuant thereto.

(b) An eligible recipient to pay for the cost of improvements to conserve water, including, without limitation:

- (1) Piping or lining of an irrigation canal;*
- (2) Recovery or recycling of wastewater or tailwater;*
- (3) Scheduling of irrigation;*
- (4) Measurement or metering of the use of water;*
- (5) Improving the efficiency of irrigation operations; and*
- (6) Improving the efficiency of the operation of a facility for the storage of water, including, without limitation, efficiency in diverting water to such a facility.*

(c) An eligible recipient, to pay the following costs associated with connecting a domestic well or well with a temporary permit to a municipal water system, if the well was in existence on or before October 1, 1999, and the well is located in an area designated by the state engineer pursuant to NRS 534.120 as an area where the ground water basin is being depleted:

- (1) Any local or regional fee for connection to the municipal water system.*
- (2) The cost of any capital improvement that is required to comply with a decision or regulation of the state engineer.*

2. Except as otherwise provided in NRS 349.983, the determination of who is to receive a grant is solely within the discretion of the board.

3. As used in this section, “eligible recipient” means a political subdivision of this state, including, without limitation, a city, county, unincorporated town, water authority, conservation district, irrigation district, water district or water conservancy district.

Sec. 3. NRS 349.982 is hereby amended to read as follows:

349.982 1. The board shall administer the program and shall adopt regulations necessary for that purpose.

2. The regulations must provide such requirements for participation in the program as the board deems necessary.

3. *The money in the fund may be used to defray, in whole or in part, the costs of administering the fund and the expenses of the board in administering the program.*

4. The board may, by regulation, impose an administrative fee which must be collected from each recipient of a grant from the fund. If such a fee is imposed, all revenue derived from the fee must be used to defray , *in whole or in part*, the costs of administering the fund and the expenses of the board in administering the program.

Sec. 4. NRS 349.983 is hereby amended to read as follows:

349.983 1. Grants may be made ~~[to purveyors of water under the program]~~ *pursuant to paragraph (a) of subsection 1 of NRS 349.981* only for those community and nontransient water systems that:

- (a) Were in existence on January 1, 1995; and
- (b) Are currently publicly owned.

2. In making its determination of which purveyors of water are to receive grants ~~[]~~ *pursuant to paragraph (a) of subsection 1 of NRS 349.981*, the board shall give preference to those purveyors of water whose public water systems regularly serve fewer than 6,000 persons.

3. Each recipient of a grant *pursuant to paragraph (a) of subsection 1 of NRS 349.981* shall provide an amount of money for the same purpose. The board shall develop a scale to be used to determine that amount, but the recipient must not be required to provide an amount less than 15 percent or more than 75 percent of the amount of the grant. The scale must be based upon the average household income of the customers of the recipient, and provide adjustments for the demonstrated economic hardship of those customers, the existence of an imminent risk to public health and any other factor that the board determines to be relevant.

~~[4. Except as otherwise provided in subsections 1 and 2, the determination of which purveyors of water are to receive grants is solely within the discretion of the board.]~~

Sec. 5. NRS 349.984 is hereby amended to read as follows:

349.984 1. The fund for grants ~~[to certain purveyors of water]~~ *for water conservation and capital improvements to certain water systems* is hereby created.

2. Except as otherwise provided by ~~[subsection]~~ *subsections 3 and 4* of NRS 349.982, the money in the fund must be used only to make grants in furtherance of the program.

3. All claims against the fund must be paid as other claims against the state are paid.

Sec. 6. NRS 349.986 is hereby amended to read as follows:

349.986 The state board of finance shall issue general obligation bonds of the State of Nevada in the face amount of not more than ~~[\$40,000,000]~~ *\$50,000,000* to support the purposes of the program. The net proceeds from the sale of the bonds must be deposited in the fund. The bonds must be redeemed through the consolidated bond interest and redemption fund.

CHAPTER 468

AN ACT relating to the Southern Nevada Water Authority; authorizing the Southern Nevada Water Authority, under specified circumstances, to increase certain fees; authorizing the Southern Nevada Water Authority to assist certain property owners to connect their property to a public water system; authorizing the Southern Nevada Water Authority to operate a project for the recharge and recovery or underground storage and recovery of water; and providing other matters properly relating thereto.

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

Section 1. Chapter 572, Statutes of Nevada 1997, at page 2799, is hereby amended by adding thereto new sections to be designated as sections 14.3 and 14.5, immediately following section 14, to read respectively as follows:

Sec. 14.3. 1. The Southern Nevada Water Authority may, in consultation with the advisory committee, establish a program under which it may enter into an agreement with an owner of real property located in the basin to:

- (a) Abandon or plug a well located on the real property;*
- (b) Install pipes and other appurtenances to deliver water to the real property; and*
- (c) Pay fees related to the connection of the property to a public water system.*

2. An agreement entered into pursuant to subsection 1 must:

- (a) Provide for the repayment, over time, to the Southern Nevada Water Authority by the owner of the real property all money expended by the Southern Nevada Water Authority pursuant to the agreement;*
- (b) Provide that all money to be repaid to the Southern Nevada Water Authority pursuant to the agreement be due and payable upon the sale or other transfer of the real property;*
- (c) Be secured by a lien upon the real property; and*
- (d) Be acknowledged and recorded in the same manner as conveyances affecting real property are required to be acknowledged and recorded pursuant to chapter 111 of NRS.*

3. An abandonment or plugging of a well pursuant to an agreement entered into pursuant to subsection 1 must be conducted in a manner approved by the State Engineer.

4. As used in this section, “public water system” has the meaning ascribed to it in NRS 445A.840.

Sec. 14.5. The Southern Nevada Water Authority may, in consultation with the advisory committee, operate a project for the recharge and recovery or

underground storage and recovery of water pursuant to chapter 534 of NRS for the benefit of owners of wells in the basin.

Sec. 2. Section 1 of chapter 572, Statutes of Nevada 1997, at page 2799, is hereby amended to read as follows:

Section 1. As used in sections 2 to 16, inclusive, *and sections 14.3 and 14.5* of this act, unless the context otherwise requires, the words and terms defined in sections 2 to 6, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. Section 13 of chapter 572, Statutes of Nevada 1997, at page 2802, is hereby amended to read as follows:

Sec. 13. 1. The Southern Nevada Water Authority may establish and collect each calendar year a fee to be assessed on users of ground water in the basin. Money raised from the fees must be used as provided in section 14 of this act.

2. Except as otherwise provided in this section:

(a) Users of ground water, other than owners of domestic wells, may be assessed a fee each calendar year of not more than ~~[\$10]~~ \$13 per acre-foot, or its equivalent, of ground water in the basin to which they have a water right in that year.

(b) Owners of domestic wells may be assessed a flat fee each calendar year of not more than ~~[\$10.]~~ \$13.

3. *Except as otherwise provided in subsections 4 and 5, if the Southern Nevada Water Authority operates a project for the recharge and recovery or underground storage and recovery of water pursuant to section 14.5 of this act:*

(a) Users of ground water, other than owners of domestic wells, may be assessed a fee each calendar year of not more than \$30 per acre-foot, or its equivalent, of ground water in the basin to which they have a water right in that year.

(b) Owners of domestic wells may be assessed a flat fee each calendar year of not more than \$30.

4. The maximum fees specified in ~~[subsection]~~ *subsections 2 and 3* may be adjusted once each year for inflation. The maximum amount of the adjustment must be determined by multiplying the respective amounts of the fees by the percentage of inflation, if any. The Consumer Price Index published by the United States Department of Labor for July preceding the year for which the adjustment is made must be used in determining the percentage of inflation.

~~[4.]~~ 5. The maximum fees may be increased by an amount ~~[which]~~ *that* is greater than the amount of the adjustment for inflation as calculated pursuant to subsection ~~[3]~~ 4 only if ~~[-~~

~~(a) A majority of all of the voting members of the advisory committee recommends the change;~~

~~—(b) The board of directors approves the recommendation; and~~

~~(e) The~~ *the* increase is approved by the Legislature.

~~[5.]~~ 6. As used in this section, “water right” means the legal right to use water that has been appropriated pursuant to chapters 533 and 534 of NRS by means of application, permit, certificate, decree or claim of vested right.

Sec. 4. Section 14 of chapter 572, Statutes of Nevada 1997, at page 2802, is hereby amended to read as follows:

Sec. 14. Money collected pursuant to section 13 of this act must be used to:

1. Develop and distribute information promoting education and the conservation of ground water in the basin.

2. Perform such comprehensive inventories of wells of all types located within the basin as may be needed. Such inventories must be done in conjunction with the State Engineer.

3. Prepare, for use by the advisory committee, such cost-benefit analyses relating to the recharge *and recovery or underground storage and recovery* of ~~[the ground]~~ water in the basin as may be needed.

4. Develop recommendations for additional activities for the management of the basin and the protection of the aquifer in which the basin is located ~~[.]~~, *and to conduct such activities if the activities have been approved by the board of directors.*

5. *Develop and implement a program to provide financial assistance to owners of real property served by:*

(a) Domestic wells; or

(b) Wells that are operated pursuant to temporary permits, in existence before October 1, 1999, who are required by the state engineer to connect the real property to a public water system.

6. Perform such other duties as are necessary for the Southern Nevada Water Authority and the advisory committee to carry out the provisions of this act .
~~[related to the management program.]~~

Sec. 5. Section 20 of chapter 572, Statutes of Nevada 1997, at page 2803, is hereby amended to read as follows:

Sec. 20. ~~[1.]~~ This act becomes effective upon passage and approval.

~~[2. If the Advisory Committee for the Management of Ground Water in the Las Vegas Valley Ground Water Basin pursuant to section 18 of this act includes in the joint report to the 70th session of the Nevada Legislature the advisory committee’s recommendation that the management program be terminated, this act expires by limitation 90 days after the date on which the report is submitted to the Director of the Legislative Counsel Bureau pursuant to section 12 of this act.]~~

Sec. 6. Section 18 of chapter 572, Statutes of Nevada 1997, at page 2803, is hereby repealed.

Sec. 7. The amendatory provisions of subsection 3 of section 13 of chapter 572, Statutes of Nevada 1997, as amended by this act, do not apply to a state agency in the Las Vegas Valley Ground Water Basin until July 1, 2001.

Sec. 8. This act becomes effective upon passage and approval.

APPENDIX D

Suggested Legislation

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BDR 40-308	Requires applicant for permit to operate certain water systems to provide documentation that applicant possesses sufficient water rights to operate system	57
BDR 48-309	Makes various changes concerning protectible interests in domestic water wells.....	63
BDR R-310	Directs Legislative Commission to conduct interim study of quality and quantity of ground water within State of Nevada.....	71

SUMMARY—Requires applicant for permit to operate certain water systems to provide documentation that applicant possesses sufficient water rights to operate system.
(BDR 40-308)

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

AN ACT relating to water controls; requiring an applicant for a permit to operate certain privately owned public water systems to provide documentation that the applicant possesses water rights that are sufficient to operate the system; and providing other matters properly relating thereto.

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

Section 1. NRS 445A.895 is hereby amended to read as follows:

445A.895 A permit to operate a water system may not be issued pursuant to NRS 445A.885 unless all ~~of~~ the following conditions are met:

1. Neither water provided by a public utility nor water provided by a municipality or other public entity is available to the persons to be served by the water system.

2. The applicant fully complies with all ~~{øf}~~ the conditions of NRS 445A.885 to 445A.915, inclusive.

3. *The applicant submits to the state board of health or the health authority designated by the state board of health documentation issued by the state engineer which sets forth that the applicant holds water rights that are sufficient to operate the water system.*

4. The local governing body assumes:

(a) Responsibility in case of default by the builder or developer of the water system for its continued operation and maintenance in accordance with all ~~{øf}~~ the terms and conditions of the permit.

(b) The duty of assessing the lands served as provided in subsection ~~{5-}~~ 6.

~~{4-}~~ 5. The applicant furnishes the local governing body sufficient surety in the form of a bond, certificate of deposit, investment certificate or any other form acceptable to the governing body, to ensure the continued maintenance and operation of the water system:

(a) For 5 years following the date the system is placed in operation; or

(b) Until 75 percent of the lots or parcels served by the system are sold,

whichever is later.

~~{5-}~~ 6. The owners of the lands to be served by the water system record a declaration of covenants, conditions and restrictions, which is an equitable servitude running with the land and which must provide that each lot or parcel will be assessed by the local governing body for its proportionate share of the cost of continued operation and maintenance of the water system if

there is a default by the applicant or operator of the water system and a sufficient surety, as provided in subsection ~~{4,}~~ 5, is not available.

~~{6-}~~ 7. If the water system uses or stores ozone, the portion of the system where ozone is used or stored must be constructed not less than 100 feet from any existing residence, unless the owner and occupant of each residence located closer than 100 feet consent to the construction of the system at a closer distance.

~~{7-}~~ 8. The declaration of covenants, conditions and restrictions recorded by the owners of the lands further provides that if the state board of health determines that:

(a) The water system is not satisfactorily serving the needs of its users; and

(b) Water provided by a public utility or a municipality or other public entity is reasonably available,

the local governing body may, pursuant to NRS 244.3655 or 268.4102, require all users of the water system to connect into the available water system provided by a public utility or a municipality or other public entity, and each lot or parcel will be assessed by the local governing body for its proportionate share of the costs associated with connecting into that water system. If the water system is being connected into a public utility, the public utilities commission of Nevada shall determine the amount of the assessments for the purposes of establishing a lien pursuant to NRS 445A.900.

~~{8-}~~ 9. Provision has been made for disposition of the water system and the land on which it is situated after the local governing body requires all users to connect into an available water system provided by a public utility or a municipality or other public entity.

Sec. 2. NRS 445A.910 is hereby amended to read as follows:

445A.910 1. If the state board of health has found that any of the conditions of a permit to operate ~~{such}~~ a water system issued pursuant to NRS 445A.885 are being violated and has notified the holder of the permit that he must bring the water system into compliance, but the holder of the permit has failed to comply within a reasonable time after the date of the notice, the local governing body, if requested to do so in writing by the state board of health, may take the following actions independently of any further action by the state board of health:

(a) Give written notice, by certified mail, to the owner of the water system and the owners of the property served by the system that if the violation is not corrected within 30 days after the date of the notice, the local governing body will seek a court order authorizing it to assume control; and

(b) After the 30-day period has expired, if the water system has not been brought into compliance, apply to the district court for an order authorizing the local governing body to assume control of the system and assess the property for the continued operation and maintenance of the system as provided in subsection ~~{5}~~ 6 of NRS 445A.895.

2. If the local governing body determines at any time that immediate action is necessary to protect the public health and welfare, it may assume physical control and operation of a water system without complying with any of the requirements set forth in subsection 1. The local governing body may not maintain control of a water system pursuant to this subsection for a period greater than 30 days unless it obtains an order from the district court authorizing an extension.

Sec. 3. This act becomes effective on July 1, 2001.

SUMMARY—Makes various changes concerning protectible interests in domestic water wells.

(BDR 48-309)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

AN ACT relating to water; extending to all counties the recognition of the importance of domestic wells as appurtenances to private homes and the creation of a protectible interest in such wells; eliminating the requirement for a copy of the notice of application for certain proposed wells to be mailed to certain owners of real property containing domestic wells; requiring the state engineer to reject certain applications to apply water to a beneficial use if the proposed use or change conflicts with protectible interests in existing domestic wells; eliminating certain provisions governing permits for wells; and providing other matters properly relating thereto.

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

Section 1. NRS 533.024 is hereby amended to read as follows:

533.024 The legislature declares that it is the policy of this state:

1. To encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare, and where that use does not interfere with federal obligations to deliver water of the Colorado River.

2. ~~{In a county whose population is less than 400,000, to}~~ **To** recognize the importance of domestic wells as appurtenances to private homes, to create a protectible interest in such wells and to protect their supply of water from unreasonable adverse effects caused by municipal, quasi-municipal or industrial uses.

Sec. 2. NRS 533.360 is hereby amended to read as follows:

533.360 1. Except as otherwise provided in subsection ~~{4,}~~ 3, NRS 533.345 and subsection 3 of NRS 533.370, when an application is filed in compliance with this chapter, the state engineer shall, within 30 days, publish or cause to be published once a week for 4 consecutive weeks in a newspaper of general circulation and printed and published in the county where the water is sought to be appropriated, a notice of the application, which sets forth:

- (a) That the application has been filed.
- (b) The date of the filing.
- (c) The name and address of the applicant.
- (d) The name of the source from which the appropriation is to be made.
- (e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.
- (f) The purpose for which the water is to be appropriated.

The publisher shall add thereto the date of the first publication and the date of the last publication.

2. Except as otherwise provided in subsection ~~{4,}~~ 3, proof of publication must be filed within 30 days after the final day of publication. The state engineer shall pay for the publication from the application fee. If the application is canceled for any reason before publication, the state engineer shall return to the applicant that portion of the application fee collected for publication.

3. ~~{If the application is for a proposed well:~~

~~—(a) In a county whose population is less than 400,000;~~

~~—(b) For municipal, quasi-municipal or industrial use; and~~

~~—(c) Whose reasonably expected rate of diversion is one-half cubic foot per second or more;~~

~~the applicant shall mail a copy of the notice of application to each owner of real property containing a domestic well that is within 2,500 feet of the proposed well, to his address as shown in the latest records of the county assessor. If there are not more than six such wells, notices must be sent to each owner by certified mail, return receipt requested. If there are more than six such wells, at least six notices must be sent to owners by certified mail, return receipt requested. The return receipts from these notices must be filed with the state engineer before he may consider the application.~~

~~—4.} The provisions of this section do not apply to an environmental permit.~~

Sec. 3. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the state engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

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

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

(c) The applicant provides proof satisfactory to the state engineer of:

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in subsection 6, the state engineer shall approve or reject each application within 1 year after the final date for filing a protest. However:

(a) Action may be postponed by the state engineer upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant; and

(b) In areas where studies of water supplies have been determined to be necessary by the state engineer pursuant to NRS 533.368 or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection 6, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights ~~§~~ *or with protectible interests in existing domestic wells as set forth in NRS 533.024*, or threatens to prove detrimental to the public interest, the state engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

4. In determining whether an application for an interbasin transfer of ground water must be rejected pursuant to this section, the state engineer shall consider:

- (a) Whether the applicant has justified the need to import the water from another basin;
- (b) If the state engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;
- (c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;
- (d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and
- (e) Any other factor the state engineer determines to be relevant.

5. If a hearing is held regarding an application, the decision of the state engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an

oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record made of the endorsement in the records of the state engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection 7, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

6. The provisions of subsections 1 to 4, inclusive, do not apply to an application for an environmental permit.

7. The provisions of subsection 5 do not authorize the recipient of an approved application to use any state land administered by the division of state lands of the state department of conservation and natural resources without the appropriate authorization for that use from the state land registrar.

8. As used in this section, "interbasin transfer of ground water" means a transfer of ground water for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.

Sec. 4. NRS 534.110 is hereby amended to read as follows:

534.110 1. The state engineer shall administer this chapter and shall prescribe all necessary regulations within the terms of this chapter for its administration.

2. The state engineer may:

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

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

3. The state engineer shall determine whether there is unappropriated water in the area affected and may issue permits only if the determination is affirmative. ~~[The state engineer shall require each applicant to whom a permit is issued for a well:~~

~~—(a) In a county whose population is less than 400,000;~~

~~—(b) For municipal, quasi-municipal or industrial use; and~~

~~—(c) Whose reasonably expected rate of diversion is one half cubic foot per second or more,~~

~~to report periodically to the state engineer concerning the effect of that well on other previously existing wells that are located within 2,500 feet of the well.]~~

4. It is a condition of each appropriation of ground water acquired under this chapter that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion. In determining a reasonable lowering of the static water level in a particular area, the state engineer shall consider the economics of pumping water for the general type of crops growing and may also consider the effect of using water on the economy of the area in general.

5. This section does not prevent the granting of permits to applicants later in time on the ground that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as *any protectible interests in*

existing domestic wells as set forth in NRS 533.024 and the rights of holders of existing appropriations can be satisfied under such express conditions. ~~{At the time a permit is granted for a well:~~

~~—(a) In a county whose population is less than 400,000;~~

~~—(b) For municipal, quasi-municipal or industrial use; and~~

~~—(c) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,~~

~~the state engineer shall include as a condition of the permit that pumping water pursuant to the permit may be limited or prohibited to prevent any unreasonable adverse effects on an existing domestic well located within 2,500 feet of the well, unless the holder of the permit and the owner of the domestic well have agreed to alternative measures that mitigate those adverse effects.}~~

6. The state engineer shall conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the ground water supply may not be adequate for the needs of all permittees and all vested-right claimants, and if his findings so indicate the state engineer may order that withdrawals be restricted to conform to priority rights.

7. In any basin or portion thereof in the state designated by the state engineer, the state engineer may restrict drilling of wells in any portion thereof if he determines that additional wells would cause an undue interference with existing wells. Any order or decision of the state engineer so restricting drilling of such wells may be reviewed by the district court of the county pursuant to NRS 533.450.

Sec. 5. This act becomes effective on July 1, 2001.

SUMMARY—Directs Legislative Commission to conduct interim study of quality and quantity of ground water within State of Nevada. (BDR R-310)

_____ CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study concerning the quality and quantity of ground water within the State of Nevada.

WHEREAS, Nevada is located in an arid region where water is often in short supply; and

WHEREAS, A large quantity of the water of this state is in the form of ground water; and

WHEREAS, Many populated areas of this state rely upon domestic and municipal wells for their supplies of water; and

WHEREAS, Many populated areas of this state also rely upon septic tanks for the disposal of wastewater; and

WHEREAS, There are many areas within this state where the quantity of water is not as grave a problem as the availability of water that is suitable for public consumption; and

WHEREAS, A thorough examination of the laws and policies of this state governing the use of ground water is vital to the continued prosperity and public health of this state; now, therefore, be it

RESOLVED BY THE _____ OF THE STATE OF NEVADA, THE _____ CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of the quality and quantity of ground water in this state; and be it further

RESOLVED, That the Legislative Commission shall appoint a subcommittee, the members of which are representative of various geographical areas of the state, consisting of:

1. Three members of the Senate Standing Committee on Natural Resources; and
2. Three members of the Assembly Standing Committee on Natural Resources; and be it further

RESOLVED, That the study must include, without limitation, an examination of:

1. Whether there are sufficient controls in place to protect the quality of ground water, especially with respect to septic tanks;
2. The availability and adequacy of data concerning the quality of ground water;
3. The manner in which laws governing the division of land, including, without limitation, chapter 278 of NRS, affect the quality and quantity of ground water; and be it further

RESOLVED, That the Legislative Commission shall designate a chairman of the subcommittee from among the members of the Senate appointed to the subcommittee; and be it further

RESOLVED, That the subcommittee shall meet at least six times during the interim and consult with an advisory committee consisting of eight members who are representative of various geographical areas of the state and are appointed by the subcommittee as follows:

1. A member who represents the Division of Water Resources of the State Department of Conservation and Natural Resources;
2. A member who represents the Division of Environmental Protection of the State Department of Conservation and Natural Resources;
3. A member who represents the Health Division of the Department of Human Resources;

4. A member who represents the office of a county manager;
5. A member who represents a county whose population is less than 100,000 or the planning commission of such a county;
6. A member who represents a county whose population is 100,000 or more or the regional planning commission of such a county;
7. A member who represents residential well owners; and
8. A member who represents residential housing developments that are typically served by domestic wells and septic tanks; and be it further

RESOLVED, That the members of the advisory committee serve without compensation, per diem allowance, travel expenses or other reimbursement; and be it further

RESOLVED, That any recommended legislation proposed by the subcommittee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the subcommittee; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 72nd session of the Nevada Legislature.

APPENDIX E

Subcommittee Letters



Nevada Legislature

SEVENTIETH SESSION

COMMITTEES:

Chairman
Natural Resources
Public Lands

Vice Chairman
Taxation

Member
Commerce and Labor

DEAN A. RHOADS

SENATOR

Northern Nevada Senate District

October 9, 2000

Joan Buchanan, Administrator
Real Estate Division
2501 East Sahara Avenue
Las Vegas, NV 89104-4137

Dear Ms. Buchanan:

As you may know, the 1999 Nevada Legislature directed a Study of Domestic and Municipal Water Wells, to be conducted by a Subcommittee of the Legislative Committee on Public Lands. The study is described in Section 4 of Assembly Bill 408 (Chapter 636, *Statutes of Nevada*). I served as Chairman of both the Committee on Public Lands and the A.B. 408 Subcommittee. Other Subcommittee members are Senator Margaret A. Carlton, Senator Jon C. Porter Sr., Assemblyman Douglas A. Bache, and Assemblywoman Kathy A. Von Tobel.

A series of recommendations resulted from this study, including one pertaining to the disclosure of certain domestic, community, and quasi-municipal well information to prospective buyers of real estate. Concern was expressed that buyers of property served by a well for domestic use are often unaware that the well may be under temporary permit, and that the temporary permit is subject to revocation when municipal water becomes available. They are also unaware of the significant costs involved when hooking up to municipal water, and the financial assistance that may be available.

Nevada water law authorizes the State Engineer to issue temporary permits where groundwater is being depleted, and to revoke those permits when a municipal water supply is available. Although this situation currently exists only in the Las Vegas Valley (it is the only valley presently designated as depleting its groundwater), the authority of the State Engineer is statewide and established in statute (see *Nevada Revised Statutes* 534.120). Additionally, as Nevada's population continues to grow, other valleys may also be designated and face a similar situation. Therefore, the Subcommittee determined that it is necessary to address the disclosure issue at the State level, rather than delegating it to local jurisdictions.

DISTRICT OFFICE:

Box 8, Tuscarora, Nevada 89834-0008 • Ranch (775) 756-6582 • Elko (775) 738-4490 • Cell (775) 742-7303 • Fax No. (775) 756-5544

LEGISLATIVE BUILDING:

401 S. Carson Street, Carson City, Nevada 89701-4747 • (775) 687-3648 or 687-5742 • Fax No. (775) 687-8206

Page 2

Deliberation about this issue benefited greatly from the testimony of Matt Di Orio, Education and Information Officer, Real Estate Division. His participation at the June 22, 2000, meeting of the Water Wells Technical Advisory Committee was invaluable. As a result, the Subcommittee voted unanimously to address this issue by urging the Real Estate Division, in consultation with the State Engineer, to ensure that information is provided to potential buyers of property served by domestic, community and quasi-municipal wells, including consideration of appropriate disclosure procedures. Mr. Di Orio indicated that he believed minor modification to the Seller's Real Property Disclosure form may be a reasonable solution. We also understand that Continuing Education courses are periodically offered for real estate licensees, making this another avenue for improving awareness of the temporary permit issue.

Please consider this letter a formal request by the Subcommittee to consult with the State Engineer in addressing this issue (as previously described). Your cooperation in helping us to resolve this issue as quickly as possible is greatly appreciated. The State Engineer is Hugh Ricci at the Division of Water Resources (775-687-4037). Mr. Ricci was involved in the Study of Domestic and Municipal Water Wells and is familiar with the Subcommittee's recommendation. If you have any questions or need additional clarification, please also feel free to contact Linda Eissmann, Senior Research Analyst at the Legislative Counsel Bureau (775-684-6825).

Sincerely,



Dean A. Rhoads
Nevada State Senator

DAR/pc:W02736.53

cc: Mr. Matt Di Orio, Education/Information Officer, Real Estate Division
Mr. Hugh Ricci, State Engineer, Division of Water Resources
Ms. Sydney Wickliffe, Director, Department of Business and Industry



Nevada Legislature

SEVENTIETH SESSION

COMMITTEES:

Chairman

Natural Resources
Public Lands

Vice Chairman

Taxation

Member

Commerce and Labor

DEAN A. RHOADS

SENATOR

Northern Nevada Senate District

October 9, 2000

To Nevada's Seventeen County Commissions

Dear Chairman/Chairwoman:

As you may know, the 1999 Nevada Legislature directed a Study of Domestic and Municipal Water Wells, to be conducted by a Subcommittee of the Legislative Committee on Public Lands (Assembly Bill 408, Chapter 636, *Statutes of Nevada 1999*). I served as Chairman of both the Committee on Public Lands and the A.B. 408 Subcommittee. Other Subcommittee members are Senator Margaret A. Carlton, Senator Jon C. Porter Sr., Assemblyman Douglas A. Bache, and Assemblywoman Kathy A. Von Tobel.

A series of recommendations resulted from this study, including one pertaining to the education of domestic well owners in Nevada. In addressing this issue, we seek your support and participation.

Significant concern was expressed by members of the study's Technical Advisory Committee (a 12-member panel representing urban and rural areas, well owners, municipal water suppliers, water right holders, ratepayers, and other water experts) that many existing and potential water well owners are not adequately informed about groundwater dynamics, water quality protection, effective well management, and the risks involved in owning a domestic well.

For example, the State Engineer reported frequent calls from unsuspecting well owners whose wells have gone dry. Unfamiliar with groundwater dynamics, they often instruct the well driller to go only five or ten feet into the water table and stop. Then, when a nearby irrigation well goes into production and drops the water table, the homeowner's well often goes dry, a situation that could have been avoided if the well owner was more familiar with groundwater dynamics and knew to drill deeper. Other members of the advisory committee reported instances of frustrated well owners unable to locate potable water, or any water at all, and having expended considerable sums of money in the effort.

DISTRICT OFFICE:

Box 8, Tuscarora, Nevada 89834-0008 • Ranch (775) 756-6582 • Elko (775) 738-4490 • Cell (775) 742-7303 • Fax No. (775) 756-5544

LEGISLATIVE BUILDING:

401 S. Carson Street, Carson City, Nevada 89701-4747 • (775) 687-3648 or 687-5742 • Fax No. (775) 687-8206

Page 2

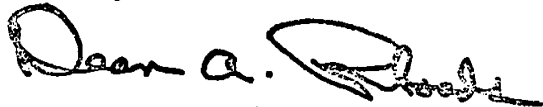
reported instances of frustrated well owners unable to locate potable water, or any water at all, and having expended considerable sums of money in the effort.

In an attempt to address this problem, the advisory committee developed a bibliography of existing pamphlets and brochures, typically available from the Cooperative Extension Service, on a wide range of water well topics. The advisory committee suggested that this information be made available to well owners statewide, but recognized that information on domestic wells tends to be geographically related, with specific information more relevant in some areas than in others. Therefore, we believe Nevada's counties are in a better position to determine what information is appropriate, and how best to educate their well owners.

The Subcommittee voted unanimously to seek your cooperation in addressing this issue. We urge you review the enclosed bibliography, determine the pamphlets that may be most appropriate for your area, and look at ways of disseminating this information to the well owners of your county. Perhaps you might consider advising them about the useful information readily available from the Cooperative Extension Service in your area, and encouraging them to learn more about groundwater dynamics, water quality protection, effective well management, and the risks involved in owning a domestic well. Or you may want to consider including a copy of the bibliography with a short statement about the importance of water well education with appropriate building permits for properties that will utilize wells for domestic purposes. Clearly, there are a number of options to disseminate this information, and we ask you to consider whichever avenue is most appropriate and effective in your area.

Your participation and cooperation in this educational effort will be greatly appreciated. If you have any questions about the study or this specific issue, please feel free to contact Linda Eissmann, Senior Research Analyst with the Legislative Counsel Bureau, at (775) 684-6825.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean A. Rhoads". The signature is fluid and cursive, with a large initial "D" and "R".

Dean A. Rhoads
Nevada State Senator

DAR/pc:W02737.53
Enc.

APPENDIX F

Letter from Nevada Congressman Jim Gibbons

JIM GIBBONS
2ND DISTRICT, NEVADA

COMMITTEE ON RESOURCES

SUBCOMMITTEE ON NATIONAL PARKS
AND PUBLIC LANDS

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

COMMITTEE ON ARMED SERVICES

SUBCOMMITTEE ON MILITARY PROCUREMENT

SUBCOMMITTEE ON MILITARY READINESS



Congress of the United States
House of Representatives

January 27, 2000

SELECT COMMITTEE ON INTELLIGENCE

SUBCOMMITTEE ON TECHNICAL AND
TACTICAL INTELLIGENCE

COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON BENEFITS

MINING CAUCUS, Co-Chairman

GAMING CAUCUS, Vice Chairman

SPORTSMEN'S CAUCUS

AIR POWER CAUCUS

NATIONAL GUARD AND RESERVE
COMPONENTS CAUCUS

Dear Chairman Rhoads and Water Well Subcommittee:

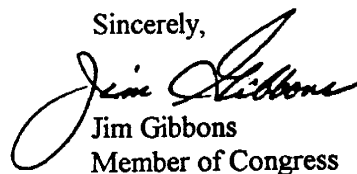
I would like to thank the Interim Legislative Subcommittee for holding this hearing on the important issue of well protection. As you may know, when I was in the State Assembly, we fought hard to protect the property rights of domestic well owners.

In the closing hours of the 67th legislative session, NRS 533 was amended by Senate Bill 19 in the Assembly, and accepted by the Senate. This language stated that when a commercial well was drilled within 2,500 feet of a domestic well, and a reduction in private water resulted, then the commercial well owner was required to provide their well services at no charge to the domestic well owner. However, the language excluded wells in population concentrations of 400,000 people or more. Because of political pressure, and the reality of the entire amendment being defeated, this language was accepted to ensure that private property protections were given to as many Nevadans as possible.

I believe that the protection of private property should be one of our government's greatest responsibilities. It is my hope that the 71st legislative session will expand private property rights and include protection for all domestic well owners within the state. As a State Assemblyman I championed this legislation and as a Member of Congress I offer my strong support and any assistance that you may need.

Thank you for allowing me to express my views on this very important issue.

Sincerely,


Jim Gibbons
Member of Congress

CONGRESSIONAL OFFICES:

100 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6155
FAX: (202) 225-5679

400 SOUTH VIRGINIA STREET, SUITE 502
RENO, NEVADA 89501
(775) 686-5760
FAX: (775) 686-5711

850 SOUTH DURANGO DRIVE, SUITE 107
LAS VEGAS, NEVADA 89145
(702) 255-1651
FAX: (702) 255-1927

WESTERN FOLKLIFE CENTER
501 RAILROAD STREET, SUITE 202
ELKO, NEVADA 89801
(775) 777-7920
FAX: (775) 777-7922

Website: <http://www.house.gov/gibbons/>

E-mail: mail.gibbons@mail.house.gov

APPENDIX G

Bibliography of Water Well Information Available from Cooperative Extension Service

**BIBLIOGRAPHY OF AVAILABLE INFORMATION CONCERNING
DOMESTIC WELLS IN NEVADA**

Southern Nevada Water Authority, 1998. *Groundwater and Wells in the Las Vegas Valley*. Prepared by Clark County Conservation District.

University of Nevada, Reno Cooperative Extension, 1997. *Protecting Nevada's Water – Work Sheet SP-98-03H(2) Water Well Condition*.

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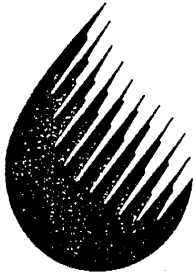
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United States Geological Survey, 1988. General Interest Publications of the U.S. Geological Survey. *Ground Water and the Rural Homeowner*.

APPENDIX H

Letter from Southern Nevada Water Authority Concerning
Financial Assistance Guidelines



SOUTHERN NEVADA
WATER AUTHORITY

Administrative Office
1001 S. Valley View Blvd.
Las Vegas, Nevada 89153
Telephone: (702) 258-3939
Fax: (702) 258-3268

Project Office
1900 E. Flamingo, Ste. 170
Las Vegas, Nevada 89119
Telephone: (702) 862-3400
Fax: (702) 862-3470

Southern Nevada Water System
243 Lakeshore Road
Boulder City, NV 89005
Telephone: (702) 564-7697
Fax: (702) 564-7222

April 28, 2000

Mr. Roland Westergard, Chairman
Technical Advisory Committee
to the Assembly Bill 408 Subcommittee
207 Carville Circle
Carson City, Nevada 89703

Dear Roland,

On November 18, 1999, the Southern Nevada Water Authority (SNWA) Board of Directors voted unanimously to adopt Financial Assistance Guidelines to meet the requirements of Assembly Bills 347 and 408 of the 70th Nevada Legislature. The guidelines provide grants to well owners who are required by the State Engineer to connect to a municipal water system. They also allow for grants in cases of voluntary connection.

As Chair of the SNWA Board, I want to reaffirm to your committee our commitment to these guidelines and the percentages therein. The guidelines adhere to the intent of the Nevada Legislature and we are committed to administering them fairly and impartially, as written. They also fully reflect the spirit and intent of the Las Vegas Valley Groundwater Management Program, which in only three years has made tremendous strides in identifying and addressing the concerns of well users within our basin.

Since 1996, the SNWA has involved average citizens in formulating and implementing a management program that realistically deals with the groundwater issue in our valley. In cooperation with well users, the Division of Water Resources, and the citizen-based Advisory Committee for Groundwater Management, we have worked in good faith to find solutions that will protect the aquifer and benefit those on wells. Despite the complexity of the issues, we have been successful in doing this – and in a very short time.

BOARD OF DIRECTORS

Mary J. Kincaid, Chair
County Commissioner

Amanda M. Cyphers, Vice Chair
Henderson Councilman

Shari Buck
North Las Vegas Councilman

Lance Malone
County Commissioner

Michael McDonald
Las Vegas Councilman

Bryan Nix
Boulder City Councilman

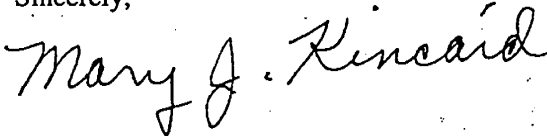
Myrna Williams
County Commissioner

Patricia Mulroy
General Manager

Roland Westergard
Financial Assistance Guidelines
April 28, 2000
Page 2 of 2

We welcome and appreciate the work of your committee and hope this letter clarifies any questions concerning the Financial Assistance Program. A copy of the agenda item and guidelines is enclosed for your records. Thank you for the opportunity to emphasize our commitment to this program and the types of activities that benefit well users.

Sincerely,



Mary J. Kincaid, Chair
Board of Directors

cc: Legislative Committee on Public Lands

Senator Dean Rhoads, Chair
Assemblyman John Marvel, Vice-Chair
Senator Terry Care
Senator Mark James
Assemblyman Jerry Claborn
Assemblyman Roy Neighbors
Alex Dufurrena, Humboldt County Commissioner
Senator Mike McGinness (alternate)
Senator Ray Shaffer (alternate)
Assemblyman Tom Collins (alternate)
Assemblyman Don Gustavson (alternate)
Assemblywoman Kathy Von Tobel (alternate)

Legislative Subcommittee to Study Domestic and Municipal Wells

Senator Dean Rhoads, Chair
Senator Maggie Carlton
Senator Jon Porter
Assemblyman Doug Bache
Assemblywoman Kathy Von Tobel
Senator Ann O'Connell
Linda Eissmann, Senior Research Analyst, Legislative Counsel Bureau
Jean Rice, Field Representative, Office of U.S. Congressman Jim Gibbons
Michael Stewart, Senior Research Analyst, Legislative Counsel Bureau

Enclosures a/s