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Testimony  
Senate Natural Resource Committee  
Senate Bill 76  
March 31, 2003

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Though usually ignored, the Sage Brush Rebellion bill is still the law in Nevada. Nevada claimed, when that law was passed, that the land administered by the Bureau of Land Management is owned by the State of Nevada. Except in practice we have not backed away from that claim.

Now we must decide whether we want to give the Federal Government one half of all the stockwater to be developed on Federal land from this point forward. Of course they want it, because they don't really have full control of the land without having control of the water. A right to one half of each source developed in the right places gives them that control.

Senate Bill 76 gives them that control.

Of all who are involved in the issue of Nevada stockwater rights on the Federal land today, I believe Harry Swainston has been involved longer and has been more deeply involved than anyone.

You have before you a copy of a bill referred to as the Swainston Bill that was crafted by Harry and based on Assembly Bill 470 which was voted out of committee in the 1985 Legislature.

Starting with Bureau of Land Management water filing in 1979, Harry, while representing the State Attorney General Office, fought the issue through to the Supreme Court the first time it went there.

I also became involved with this water issue over twenty years ago when, as President of the Nevada Land Action Association which is the legal arm of the Nevada Cattlemen's Association, we filed with the Nevada Attorney General

Office to prevent Federal filings on Nevada water.

It is my opinion that any bill that is passed out of this session of the Legislature should accomplish three things:

- 1) It should protect existing rights.
- 2) It should prevent the Federal Government from being able to acquire water for stock watering purposes.
- 3) It should have the best chance of passing constitutional muster at the court level.

From all the reading I have done and the discussions I have participated in, I believe the Swainston Bill is the best for accomplishing these three purposes.

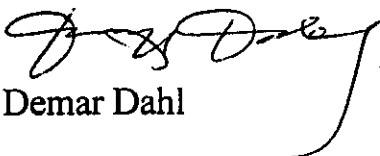
Though Senate Bill 76 will protect existing rights it does not prevent the Federal Government from having the power that comes with controlling both the land and the water. As you have heard in testimony from Harry Swainston, Senate Bill 76 may also have constitutional problems which the Swainston Bill does not.

There are those that argue Senate Bill 76 may not be appealed by the agencies which will allow us to get on with water developments on the Federal land. I think we all agree however it is very likely that at least one of the Federal agencies or another interested party will appeal whatever water bill is passed this session. Even if Senate Bill 76 is not appealed and water developments started sooner rather than later it would be a short term advantage with long term consequences.

Senate Bill 76 will create a substantial change in historic Nevada water law and may set a precedent for Federal control of water, beyond stockwater rights, in areas we do not now anticipate.

I propose that Senate Bill 76 be amended by striking all provisions contained in it and replacing them with the provisions in the Swainston Bill.

Respectively Submitted,



Demar Dahl