MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-Third Session
February 23, 2005

The Committee on Government Affairs was called to order at 8:12 a.m., on Wednesday, February 23, 2005. Chairman David Parks presided in Room 3143 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. David Parks, Chairman
Ms. Peggy Pierce, Vice Chairwoman
Mr. Kelvin Atkinson
Mr. Chad Christensen
Mr. Jerry D. Claborn
Mr. Pete Goicoechea
Mr. Tom Grady
Mr. Joe Hardy
Mrs. Marilyn Kirkpatrick
Mr. Bob McCleary
Mr. Harvey J. Munford
Ms. Bonnie Parnell
Mr. Scott Sibley

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Eileen O'Grady, Committee Counsel
Michael Shafer, Committee Attaché

OTHERS PRESENT:

Norman Parsons, President, Parsons Drilling, Inc.; and President, Nevada Ground Water Association
Mark Moyle, Chairman, Agricultural Committee, Nevada Ground Water Association
John M. Cristich, Civil Engineer, representing Nevada Ground Water Association
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation
Hugh Ricci, P.E., State Engineer, Division of Water Resources, Nevada Department of Conservation and Natural Resources
Steve K. Walker, Legislative Advocate, representing Truckee Meadows Water Authority

Chairman Parks:
[Meeting called to order. Roll taken.] We have one bill listed for our agenda today. I believe Mr. Goicoechea is going to make opening remarks.

Assembly Bill 80: Revises provisions relating to wells. (BDR 48-982)

Assemblyman Pete Goicoechea, Assembly District No. 35, Eureka, Pershing, White Pine, Churchill (Part), Humboldt (Part), Lander (Part), and Washoe (Part):
[Read from Exhibit B.]

> Members of the Committee, I would like to take a few minutes to introduce Assembly Bill 80 before turning it over to the requesters of the bill. I'm sure they will be far more qualified to answer the questions that you'll have. The bill makes three changes in *Nevada Revised Statutes* (NRS) 534. NRS 534 is the chapter that contains language for all underground water and wells. The changes are in Chapters 534.060, 534.140, and 534.150.
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> The first change is 534.060. The State Engineer requires that the old well must be plugged and sealed upon completion of a new underground well. This process is very expensive, and it renders the old well useless. The manner in which a well is plugged is set by the State Engineer's Office. Given the new technology we have

available today, a well can be inspected by running a video cam down that well, looking at its condition.

[Assemblyman Goicoechea, continued.] Drilling a well is very expensive. It could run over $50,000. Sealing and plugging a well costs almost as much as drilling, and it will exceed $10,000 at any time. It clearly makes sense to me that if a well is structurally sound and in good physical condition, it should remain in a usable condition as long as it provides some economic value to the owner. Having two wells on your property doesn't give you double the water rights, but it would be a tremendous asset if your primary well fails. Let's say you drill a new well, and, for some reason, the gravel pack or something failed in that well. Having that second well there available to you so you could knock the cap off and put the pump in, and maybe you'd save your crop. What if the production in your well declines? Due to the drought, you will see that some of these wells will go down. The production falls off; you might need another couple hundred gallons to bring that crop through.

This bill is clearly enabling legislation. It only allows a state engineer to consider granting a variance instead of requiring the well to be plugged or sealed. The second change is an effort by the industry to try to bring more credibility to the well drillers' licensing by requiring at least six hours of continuing education be in place to maintain a well driller's license. This is something that was brought forth by requests by the Nevada Well Drillers' Association. It's an attempt by them to regulate themselves. I'm sure most of you that have rural constituents have had complaints about either wells or well drillers. I think you're very sympathetic to the fact that the industry does want to bring forward a requirement on themselves. Requiring continuing education is a good one.

The third change would be in the makeup of the Well Drillers' Advisory Board. Presently, the State Engineer has the ability to appoint and create a Well Drillers' Advisory Board. This request is that at least two members on that Well Drillers' Advisory Board be from the Nevada Ground Water Association. I believe that's an associate or affiliate of the National Ground Water Association. What it would do is technically require that at least two users of groundwater would sit on the Well Drillers' Board. I think, at this time, that board could be made up of almost any appointees that the State Engineer sees fit. This bill would only require that two of

those members of that board would be groundwater users and belong to the Nevada Ground Water Association. Many of the requirements in NRS 534 are set by regulation.

[Assemblyman Goicoechea, continued.] Truly the abandonment, what is required to seal and plug a well, is regulation. It's not statute. We are meeting this afternoon with the Well Drillers and Nevada Ground Water Association, as well as the State Engineer, to try and work through this process and what those regulations should say, especially as it pertains to abandonment. I think you're going to hear a lot of testimony today about the cost of abandonment, and maybe, if there is a way to make it more feasible and cost effective, not to abandon the well. At the present time, the State Engineer or Mr. Taylor would be able to bring you up to speed on exactly what is required. I know it's very expensive. I know the tools required to abandon a well are very expensive. I hear it costs $32 a foot to abandon. That's a lot of money. Again, I should say $20 a foot to abandon; it's almost the same as drilling. With that, are there any questions?

Chairman Parks:
Questions from Committee members?

Assemblywoman Pierce:
What was the original idea about requiring you to abandon or to plug a well?

Assemblyman Goicoechea:
Clearly, the intent is to protect the groundwater. Any time you have an open hole down into a groundwater aquifer, there's always the chance of contamination. The plugging and sealing is at the point where you're no longer going to use the well or drilling a new well, then you try to seal that aquifer off from any further contamination. I think the State Engineer will be able to testify that we have thousands and thousands of wells that escaped ahead of this, and clearly they do need to be abandoned. I think it's a far bigger threat in some of the urban areas where you have more development, especially in those areas that have septic and groundwater wells. Combined irrigation wells, if we're talking about a hole in 160 acres, is a little different scenario. It's clearly for protection of the groundwater resource.

Assemblywoman Pierce:
What is the difference between an irrigation well and other wells?

Assemblyman Goicoechea:
Predominantly the size. An irrigation well will be 60 inches and up, big enough that you can fit down. It's just because of the production and the clarity that an irrigation well will pull in excess of 1,000 gallons per minute (GPM). Some of them will go to 2,000 gallons per minute. Your average well, your domestic well, can only pull 1,800 gallons a day. There's a big difference.

Assemblyman Grady:
I think your last paragraph on page 1 is very important: Having two wells does not double your water right. Maybe Mr. Ricci will cover this, but on agricultural wells, is it not correct that meters need to be placed on those wells? So, even if you have two wells, you still only have a certain amount of water rights that you can use, and that is monitored by the meters on the wells.

Assemblyman Goicoechea:
That's correct. It doesn't double your water right. Your water right is 3.5 acre-feet, 4 acre-feet, whatever your application or permit is for. Even if you did have this sealed, capped well on your property, and you had a failure at your primary well, you would have to go to the State Engineer before you could actually pull that pump, start using the other one, or before you could manifold it. It would require a change. You would have to divert a portion of that water from your primary well to that secondary well, and it would have to be approved by the State Engineer. Just having the second hole there doesn't give you the opportunity to use it. The State Engineer would have to be notified, and he would have to change the place in use.

Assemblyman Claborn:
Mr. Goicoechea, I have quite a few wells in my district for human consumption. This bill, the way I look at it, would have nothing to do with water wells that you have on your property for your home and human consumption. Is that correct?

Assemblyman Goicoechea:
That is correct, but as I talk about the meeting that we're having this afternoon, when we talk about abandonment procedures pertaining to wells and other wells, that definitely could impact those smaller domestic wells in your community. What we're looking for are procedures and the ability to make it far more feasible to drill a new well and cap the old one. I think that's been the big issue all along. Nobody really wants to abandon a well if he's facing $10,000 to cap a well, whether it's domestic or otherwise. I think if we can cut through procedures or at least make it feasible to cap that well, we'll do a far better job of protecting those groundwater resources. Also, people would be more willing to step up and drill a new well and cap the old one if it is affordable. If it's going

to cost you $30,000 to drill a new domestic well and cap the old one, most people would try to get by with the old one, and that causes problems, healthwise and otherwise.

Assemblyman Claborn:
This could affect homeowners, no?

Assemblyman Goicoechea:
This bill wouldn't affect the regulations that we're working on, as it pertains to an abandonment procedure. It could make it better for domestic well waters.

Assemblyman Hardy:
For those of us who don't do wells very much, sealing the well with steel means that you do it at the top of the well. Plugging the well means you have to go down every foot, at $20 a foot, to plug the well. Is that the difference in cost basically?

Assemblyman Goicoechea:
Yes. The proposal here is that if the State Engineer grants a variance that the well does have economic viability and it's in good structural condition, you would just weld a steel cap on the top of it. The true plugging and sealing of a well in abandonment requires that you do go down and ensure that the bottom of the casing is sealed, and you rip the casing. I think the requirements are today that you pour 30 yards of neat cement down there so it forces it out into the aquifer. There's some dialogue on that. How beneficial that is to the groundwater to pour cement down it, and then establish that you do have a good seal on the outside of the casing as well, then you would pour it clear to the top. What you technically do is trade that steel casing that's in the ground for a column of cement and fill it clear to the top. It's a very expensive procedure. There's a lot of dialogue back and forth whether ripping that casing is beneficial.

Assemblywoman Pierce:
I got confused when you answered Mr. Claborn. The way it's written says it's only about irrigation wells.

Assemblyman Goicoechea:
That's correct. This bill only pertains to irrigation wells, as far as granting the variance. As I stated, the regulations that are required that are in place for abandonment pertain to all wells. This group is working with the State Engineer, trying to come up with some regulations that may be more feasible, less expensive, and that would pertain to all wells.

Assemblyman Claborn:
Mr. Goicoechea, there's really a lot of concern from my constituents in my District 19 in Las Vegas. If you can simplify this and make it cheaper, I thank you so much for bringing this bill to us.

Assemblyman Munford:
Personally, I was on a community well with about ten households. We abandoned the well and went on city water. One member of our community was still on the well. Once you abandon the well, how long is it before you lose your well rights? Let's say I wanted to dig a well on my property. Would I be permitted to do it? If you no longer use the well, aren't you supposed to be compensated for your well rights, too? Because on my deed that I have to my house, it says that I have mineral rights to my property.

Assemblyman Goicoechea:
I suggest you ask the State Engineer. He is the one that enforces that. I would also like to make very clear to the Committee that this was by request of the Nevada Well Drillers' Association. They are the ones that are bringing this bill forward, and I think they can answer your questions. I do appreciate that, but I'm not sure if my answer would be exactly correct. I suggest you ask the State Engineer.

Norman Parsons, President, Parsons Drilling, Inc.; and President, Nevada Ground Water Association:
[Read from Exhibit C.]

> I serve on the Board of Directors on Mountain State Ground Water Association. I'm a member of the National Ground Water Association [NGWA]. I'm a certified drilling contractor by the NGWA. I've been involved in the drilling industry in Nevada, the western United States, since 1968. I've been invited this year by the National Ground Water Association to join a delegation of groundwater specialists to participate in an international professional program in South Africa in October 2005 by, invitation of the South African Department of Water Affairs and Forestry.
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> The Nevada Ground Water Association consists of acting members, technical/ supplier members, and honorary members engaged in the drilling water industry. The water well industry is described by the NGWA bylaws as: "All industries and persons engaged in drilling, constructing, equipping water wells in the State of Nevada; manufacturing, supplying, or installing equipment to accomplish

that task; studying, teaching, or perfecting related technology, evaluating or developing water resources in the state of Nevada."

[Norman Parsons, continued.] The purpose of this association shall be to place the water well industry in the State of Nevada on a thoroughly scientific and business basis, maintain an organization to assist, promote, and encourage the interests and welfare of the water well industry within the state of Nevada; to foster, aid, and promote scientific education; and encourage, relative to the property, development and protection of ground water supplies of the state of Nevada; and to generate advanced mutual interest in those engaged in the water well industry, in the public welfare, to promote the preservation of viable records for the groundwater formations of the ground water formations and resources, and to safeguard public health.

We've run this through Assemblyman Goicoechea. We are an association that feels, due to the importance of water and water issues in the western United States, and especially in Nevada due to rapid growth and the pressures by the public business and government placed upon the State Engineer's Office to preserve, protect, and distribute water, there is a need for continuing education for water well drillers.

Due to constantly changing technology and equipment, in today's world, every person in the workforce must continually learn about the new products, techniques, rules, regulations, and ideas relative to their own job. To maintain the highest standards of the Nevada licensing program, drillers will be required to earn and report a minimum number of committee-approved education points in the ground water industry each calendar year.

Most states now have or will have continuing education point requirements for licensing of water well drillers. Utah and Idaho now have programs in place. Arizona and New Mexico have bills before committees this year. The primary object of the continuing education program is to increase protection of groundwater resources, increase compliance to well-growing rules, develop a minimum level of confidence among water well contractors, increase protection of the well owner, increase public confidence in the water well contractor, and eliminate, if possible, fly-by-night water well contractors.

> [Norman Parsons, continued.] The costs of this program to the state of Nevada would be very little, if any more than has already been required through license drillers. The seminars are paid for in large part by the manufacturers, suppliers, and distributors that we purchase our equipment, pumps, and supplies from. Trade shows from around the country always have technical and educational seminars at their annual conventions. The National Ground Water Association has a yearly convention where a driller can get enough points for the year. It's held in Las Vegas every other year.
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> Nevada now has a drillers' advisory board with the State Engineer's Office. The board now consists of three members, with two members from the Nevada Ground Water Association. Drillers in Nevada will have more confidence in the board.

The other things that I've presented to you are a letter that we sent to Hugh Ricci, the State Engineer, a draft of proposed licensing program for the state of Nevada, an example from the Idaho Ground Water Association, where they give continuing education points (Exhibit D). This is Mark Moyle who will be talking about the irrigation laws.

Mark Moyle, Chairman, Agricultural Committee, Nevada Ground Water Association:

I'm going to read you my information on the temporary agriculture/irrigation well abandonment. [Read from Exhibit E.]

> Current law requires that the owner of a well must abandon and plug the existing well in the event that the owner drills a replacement well. The State Engineer's Office currently requires that the owner must sign an affidavit stating that the owner will abandon and plug the old well as soon as the new well is completed. The State Engineer's Office will not even issue a well drilling permit for a new well until the affidavit is signed and returned to the State Engineer's Office. We believe that there are several injustices within the current law that necessitate revision. The following issues really need to be considered.

The existing old well still has potential economic value. The owner's investment in that well should be considered. Assemblyman Goicoechea spoke to that a little bit. Almost any business out there will have backup systems, and right now, you could purchase a piece of ground with a well on it. There could be a problem with that well. The problem could be it's still a good well; it just doesn't produce enough water. You may need a supplemental well to make

enough water, but under current regulations, you're forced to abandon that well. There needs to be some consideration from that.

[Mark Moyle, continued.] The costs and procedures of plugging existing and old wells must be considered. No two wells are alike. Right now, there's basically one process to abandon and plug a well, without any scientific or technical thought going into it. That needs to be addressed, and that's why we're working with the State Engineer's Office right now to adapt the plugging of the well process.

[Read from Exhibit E.]

> Owners need to be able to evaluate issues regarding their existing old well. They also need to be able to evaluate the abandonment procedures that need to be used in plugging a well if it is deemed unfit for use or has no economic value.

These decisions take time to accomplish. Currently, the well owner is forced to sign an affidavit to abandon and plug an existing old well as soon as the new well is dug, without any consideration of these important issues. Irrigation wells for agricultural production have their own characteristics. They should not be categorized with other wells. Like Assemblyman Goicoechea said, in general, in the state, irrigation wells are out in rural areas usually. There might be one well on 160 acres. They're very different in the way that they're drilled and made and used. There needs to be a classification for an irrigation well as such. It's not a domestic well; it's not a well in the middle of town or in large areas where there might be contamination problems.

[Read from Exhibit E.]

> The ability to temporarily abandon agricultural wells will give the well owner the time to evaluate these important considerations. The Ground Water Association has been working with the State Engineer's Office since 1992 to revise and improve many of the administrative codes. We intend to continue to work with the State Engineer's Office to improve administrative codes as new technologies and improved methods are discovered. Mr. Cristich, to my right here, has advised us on these proceedings since 1992, and is here and available to answer any technical questions that you might have in regard to this bill. John has been in water engineering in California since 1953 and has extensive knowledge and experience with the technical aspects of water issues.

Assemblyman McCleary:
You had mentioned that you disagree with some of the findings of the State Engineer. If you should have a dispute with the State Engineer, who do you appeal it to?

Mark Moyle:
The State Engineer's Office.

Assemblyman McCleary:
There's nobody above the State Engineer to appeal if you disagree with his office?

Mark Moyle:
Not that I'm aware of.

Assemblyman McCleary:
I was just wondering, because you mentioned that sometimes you disagreed with some of the things that happened in the State Engineer's Office. I was just wondering if you had an avenue to appeal it if you disagree with their decision or felt that it was unfair.

Mark Moyle:
Mr. Cristich said he'd like to answer that. I don't know if I answered it for you the way you wanted.

John M. Cristich, Civil Engineer, representing Nevada Ground Water Association:
I have over 50 years in dealing with water, not just in California, but I wrote the first water law for the state of California back in 1957. Nevada is a unique geological and agricultural area. I have my master's degree in hydrological geology, and I am a civil engineer. In dealing with this particular program, I wanted to point out that the reason—and that was one of the questions—why are we going for the agricultural wells? The definition of all the wells, and there have been revisions throughout the years, from oil drilling, gas drilling, and for all the different types of drilling methods that they've had. They've had to make changes with this with the mining and so on. The agricultural division has never been noted, and we felt that should be noted at this time, because we are going to work with Mr. Ricci, the State Engineer.

There really has not been the need of going beyond the State Engineer or the State Water Engineer. Going from him, we do have an appeal to the State Engineer, and then from there, we have an appeal to the Attorney General. That comes under the Ground Water Association. We've had a number of people

who have been cited, and we've had to go to the Attorney General's Office for final considerations. Were this bill to pass, it just has a greater identity because it's different than the water wells for domestic and commercial and industrial, and there are a number of municipal wells going in throughout the country, especially in southern Nevada. This fishing rotation is in provision.

[John Cristich, continued.] There is a division for the agricultural people. We're not asking that there's any change other than the right for appeal. I don't rest easy with the temporary. I rest more easy with the variance. In dealing many years with the different types of agriculture and the different types of problems in the wells, there are wells that have to be abandoned because the water has turned bad in the wells, the well casings may not have been the quality we have today. We've done a lot of things since 1993 with State Board of Engineers Office to change materials and equipment.

I think the explanation is all the research that has been done, that I've done, and all of the universities, I find that there's no such thing as one well. They all have some differences. They have differences in who the builder was and the type of grounds there are. The wells we have today are one-well homes. I think we're going to be dealing with the State Board of Engineers this afternoon, and I just felt that you should know considering this bill we're not trying to ever impugn the State Engineer's Office. I'm trying to get us a situation that's a little situation for every specific well. We have the technology today to review this. Some of the first information I have here is that the U.S. Navy wrote the first abandonment procedure for wells for the United States. We've taken material from the Bureau of Reclamation as advanced.

Assemblyman McCleary:
If I can just make sure I understand, if you needed to appeal something if you disagree with the State Engineer, and you need to appeal it, you can appeal it to the Attorney General. Is that what I understood? Okay.

Assemblyman Claborn:
I know how you would plug off a well. You'd put a plug and then put the steel down a hole with the rig and put a plug in the bottom, and then you would pump ground and air stream into the water to fill the inside of the well up. How do you go about sealing the outside of the well if you have a hole in your casing? That's confusing to me, because if you grab it, it would go into the flow. Do you oversize the pipe in putting it all together?

John Cristich:
I'd like to answer that question. That's one of the things we're coming to the State Engineer's Office for. Because the United States has an abandonment

procedure for one well only, and the uniqueness of the geology and the reading of… The first thing we have to do—would be a consideration of the bottom of the well—is to take the equipment out and visually inspect it with a video camera and submit this to the State Engineer's Office. There are some bad wells, there are some fractures, some pipe problems, there's all kinds of things to mandate the abandonment of a well. The abandonment procedure, as it stands with the State Engineer and just updated here several months ago, is that the welder goes down for the abandonment procedures and says, "I'm going to abandon the well. I'm going to go down according to the specifications. I'm going to rip the pipe up horizontally until we come above the static water line. Then, we're going to go back and put a plug."

[John Cristich, continued.] We've changed some of the materials; we don't bring cement anymore because cement does infect the underground first. We're using a bentonite-type of chip. As you bind this well up, I'm disturbed because you're tearing steel up, and you're also coming into one of the facts that you're bringing out. You're opening up when you're around the pipe. Over the years of the well actually being in place, in most cases, the angular area that we are required to put a 50-foot seal in of cement or of bentonite. That angular migration—the ground vibrates and moves—and the fines migrate in against the pipe. Therefore, you cannot retract the pipe.

Assemblyman Claborn:
If you would lose circulation, do you just keep pumping? Or do you at least, if circulation is out of the pipe, will you grout it? Or would you use your bentonite?

John Cristich:
We'd use bentonite the same way we'd use the concrete to seal areas. If there was a fracture in the pipe 50 feet high or 150 feet high, water was leaking in, as we come up to fill the pipe, we would air dress that and seal that section with the bentonite, and the bentonite goes out and takes care of the angular seal.

Assemblyman Goicoechea:
Chairman Parks, I suggest that the State Engineer is here and willing to testify, and maybe in the interest of this Committee and time we move ahead with that, and I'm sure he can explain some of those to you.

Assemblyman Claborn:
I'm familiar with all that. The reason I ask the questions is because I've done a little oil well drilling and a little bit of water well drilling, and I know the terminologies of lost circulation. We used to have to put walnut shells, and

we'd put tons and tons of hay in there to seal it off, so we would be able to plug the bottom or whatever. I always thought it might be interesting to this panel to know and this Committee to know this go because we put tons of fortunes and millions of dollars out in that test site when we lost circulation.

Norman Parsons:
Assemblyman Claborn, I could probably answer your question a little bit on the lost circulation. At a water well in Nevada, you can't put any organic material to regain lost circulation like we used to with loads of hay and mattresses and whatever. We can't do that anymore. The State Engineer frowns on that, so we have bentonite slugs and plugs that we put down there that will eliminate the lost circulation problems pretty readily.

John Cristich:
We're assuming that this bill would go through and has an identity, and we'll have the agricultural wells examined on their own merit.

Assemblywoman Kirkpatrick:
My question is for Mr. Moyle. What I'm trying to determine here is the time frame, because it seems that in a perfect world, everything moves very smoothly. Could you give me the worst-case scenario on how long this process would take to send the affidavit back in and get your new well drilled?

Mark Moyle:
It can be fairly rapid. The challenge that can happen there, though, worst-case scenario is in the middle of the summer season. You've lost or had a problem and had to re-drill the well. You have to receive a well drilling permit from the State Engineer's Office. Currently, you would have to, and I hate to use the word, but it seems like in the industry, it's almost like extortion. You have to sign this affidavit before you get the permit to drill the well. You're forced into a situation where you have to do that. There are a lot of considerations that need to be looked at in the abandonment procedure, and if you have a well that has no problem other than it may not produce enough water, that well still has value for you. So, as an owner of that well, you want to keep it, but you can't do that.

Assemblywoman Kirkpatrick:
When you mean "rapid," does that mean three months? I would think that you would have your permits and those kinds of things ready on the back burner, so once you got that affidavit, you would be able to move forward quickly.

Mark Moyle:
It can happen in three or four days. As long as they give you the affidavit, it can be quite fast.

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation:
[Read from Exhibit F.]

> We are here today to speak in support of Assembly Bill 80, dealing with procedures for abandonment of agricultural irrigation wells. At our most recent annual meeting, our voting delegates adopted a policy position directing us to pursue economic, efficient, rational, and scientific well abandonment and well drilling regulations. This specific charge is prompted by our members' recent experience in finding it as costly to abandon a well as they were changing over to another well as the cost associated with developing that new well.
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> From our read of Assembly Bill 80, there would be changes associated with temporary abandonment of an irrigation well, which seemed to offer significant cost savings over what our members have reported as being their experience. We also know that should Assembly Bill 80 be passed, a regulation review and rewrite would be prompted, allowing us an opportunity for organizational input.
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> We look forward to looking forward with the State Engineer's Office, as well as with this Committee, in resolving our members concerns, as well as dealing with other issues that need attention. If I can answer any questions, I would be happy to do so.

Hugh Ricci, P.E., State Engineer, Division of Water Resources, Nevada Department of Conservation and Water Resources:
First of all, I'd like to make a comment about this bill. I didn't sign in whether I was going to oppose it, whether I was going to speak for it, or whether I was neutral on it. One of the things that happened was when I saw this bill come out Friday, I scheduled a meeting to meet with the gentlemen who are the proponents of the bill this afternoon to discuss this bill. The Well Drillers' Advisory Board is meeting tomorrow. I was just to speak with them on general things around, so I haven't had a chance to even talk to them about how they feel about this particular bill, especially the second and the third parts, that being on the continuing education, and the other about how two or three members of the Well Drillers' Advisory Board must be members of the Nevada Ground Water Association.

[Hugh Ricci, continued.] With that said, I'm a little uncomfortable in trying to deflect some of the comments, and I'm not sure if they were criticisms of our office in regard to this matter. First and foremost, one of the primary missions of our Division is to protect the groundwater. Every time you put a hole in the ground, you have any opportunity to contaminate that. Mr. Goicoechea is right. I would be sitting here and lying to you if I said that every single well that is not in use is plugged. That would be a very false statement, because there are hundreds, probably thousands of them out there like that. These all have a direct link to the groundwater supply. There are still irrigation wells in urban areas. In areas like Las Vegas and Reno, there's a great dependence on that groundwater to serve a portion of the needs of those communities. When I look at this and say "irrigation," I think most people would think this is a rural problem, but it isn't a rural problem. It becomes a problem for urban settings.

There's a program in southern Nevada to plug some of these abandoned wells. I heard Mr. Goicoechea talk about the expense of plugging, and I won't shy away from that. Yes, it is. It's very expensive to plug a well. It's very expensive to drill a well also. Going to the front end of that thing, when somebody decides that they need to drill a new well, there is a reason why that is being done. Generally, either the other well is completely failed, or it's partially failed. There is a provision that's already set out that can change a portion of that particular water right from that well to a new well. They don't have to abandon the other one, and they can keep the other one working in tandem to produce enough water to meet the needs of their crop. Also, if this becomes an emergency type of thing, the 1989 Legislature enacted a provision where a temporary change can be filed to move a portion of it from one location to another. That particular provision allows it not to go to publications so those things can be done relatively quickly.

The entire procedure that's being talked about today, dealing with plugging procedure and everything, is set out in the regulations. Now, the regulations are being considered again to be revised. They were last done in 1988. We're a little bit remiss in the timing of not updating them, but all of these very issues that have just brought up here before you can be taken care of through the regulations, and the plugging procedure is obviously one of the big ones. That was one of the big ones when we did them in 1998, especially with the mining industry. When we go to amending the regulations, we send out notices to every particular interest group that we can think of that would have an interest in sitting down and discussing some of these regulations.

Also, the portion dealing with the continuing education, that also can be taken care of through the regulation, because there's a lot of questions to answer.

Who certifies that it is the right course? Would that be my office, or would it be the Nevada Ground Water Association? Would it be the National Ground Water Association? I'm not quite sure. What happens if they don't get those particular credits? Do they automatically lose their license at that moment? Or is there some sort of grace period where they can do that?

[Hugh Ricci, continued.] There are lots of things, and I think all of those can be set out by regulation also. The last portion dealing with two of the now three members of our Well Drillers' Advisory Board being part of the Nevada Ground Waters Association, I was going to ask the question to the Nevada Ground Water Association when I met with them this week: why? I listened to Mr. Parsons' testimony to try to have a more credible Well Drillers' Advisory Board, but I'm not exactly sure why an association is putting into statute in which somebody has to belong in order to be a member of the Well Drillers' Advisory Board.

Chairman Parks:
From an observation point of view, you said that there's a meeting this afternoon. I'm thinking maybe after that meeting there may be some suggested changes that could be brought back to us at that time.

Assemblywoman Pierce:
Is there a program or part of your budget devoted to plugging these abandoned wells that are all over the place?

Hugh Ricci:
No, there is not part of our budget. The requirements for the plugging rests on the landowner or the well owner to plug that well and pay the cost of that well.

Assemblywoman Pierce:
Is there a part of your budget devoted to pursuing people who have not been plugging wells who have been there for years or something like that? Is any progress being made on that?

Hugh Ricci:
I think the only place that the progress is being made is in the Las Vegas area.

Assemblyman Grady:
Mr. Ricci, following up on Mr. McCleary's earlier question, could you explain how you handle appeals, the appeal process, for your office if there is an appeal so we have no confusion on how it is done?

Hugh Ricci:
Mr. Grady, I'm going to try to remember how that all was worded, but what we're talking about, if I'm not mistaken, is the plugging procedure set out by regulation. It's very explicit what procedure there is for plugging. At the very end of the regulation, there's a provision that says, "Any section of the regulation may be waived, including plugging." We have always taken the position that we will look at things on a case-by-case basis. It lists the information that's required in this waiver request. Once we get that waiver request, we make a determination, and we can then make our determination to waive that particular portion of the regulation or not. Welding a steel cap on a casing, we don't waive that. I understand that that's the whole reason for this, because that gets to, then, if anybody says that it's too expensive to plug a well, then they don't need to plug a well. That's, in essence, what this statute is proposing to do.

Whether there's any economic value left in the well—what does "economic value" mean? It means a lot of different things to a lot of different people. If it only pumps a gallon a minute, it might have economic value for something. If it pumps 100 gallons a minute, it might have a little bigger economic value, so how do you value those two things? We make a determination: no, we're not going to accept the waiver. We're not going to grant the waiver for whatever provision of the regulation they wish to choose to do so. The only place in which they can appeal that is to a court.

Assemblyman Claborn:
I know what happened to some of the domestic wells in Las Vegas. The simple fact they plugged them because they sucked all the water out. It was just sucking sand. So, they had to be plugged, and we pumped water in. It's going to be real interesting today, and Mr. Ricci is going to come over to Natural Resources, and he's going to explain the situation about some of this water. What we do is we pump water into our buffers in Las Vegas, and we use the water from Lake Mead to try to build up our water table for our groundwater. It's imperative that some of these wells in Las Vegas had to be plugged. We were in bad need of a lot of good water. It's going to be interesting today.

Steve K. Walker, Legislative Advocate, representing Truckee Meadows Water Authority:
As the bill is written, specifically this part on agricultural well abandonment, Truckee Meadows Water Authority would oppose it. We'd be willing to negotiate or look into other language, but right now as it is written, we feel that it leaves the aquafield in and around our service area vulnerable.

Chairman Parks:
What we'll do, since there is a meeting scheduled for this afternoon, I would ask the sponsor of the measure to follow up and see if any revisions are needed for this bill and bring it back to the Committee when ready.

Assemblyman Goicoechea:
We will see if this bill can be amended and remove the opposition and bring it back.

Chairman Parks:
Hopefully, you'll include Mr. Walker.

Assemblyman Goicoechea:
Definitely. We won't bring it forward without Mr. Walker and Mr. Ricci on board.

Chairman Parks:
Thank you very much. If there's no one else who cares to speak on Assembly Bill 80, we'll go ahead and close the hearing on Assembly Bill 80. We have, I believe, only one item to handle this morning. That is, we have a bill draft request. It was a requested BDR on behalf of the Public Utilities Commission. It revises provisions to clarify the role of the Public Utility Commission of Nevada in approval of certain proposed subdivisions. I would like a motion for introduction.

- BDR 22-653: Makes various changes concerning the review of tentative maps and the approval of subdivisions of land. (Assembly Bill 125.)

  ASSEMBLYMAN MCCLEARY MOVED FOR COMMITTEE INTRODUCTION OF BDR 22-653. (ASSEMBLY BILL 125)

  ASSEMBLYMAN CLABORN SECONDED THE MOTION.

  THE MOTION PASSED UNANIMOUSLY.

With that, I have nothing further before the Committee this morning. Thank you and we are adjourned [at 9:09 a.m.].

RESPECTFULLY SUBMITTED:

_____
Michael Shafer
Committee Attaché

APPROVED BY:

_____
Assemblyman David Parks, Chairman

DATE: _____

EXHIBITS

Committee Name: Government Affairs

Date: Feb. 23, 2005 Time of Meeting: 8:12 a.m.

Bill #	Exhibit ID	Witness	Dept.	Description
	A			Agenda
AB 80	B	Assemblyman Goicoechea	Assembly	Written Testimony
AB 80	C	Norman Parsons	Nevada Ground Water Association	Executive Summary of the Drillers' Advisory Board
AB 80	D	Norman Parsons	Nevada Ground Water Association	Pamphlet including a letter to Hugh Ricci and a draft of the Licensed Well Driller Continuing Education Plan
AB 80	E	John Cristich and Mark Moyle	Nevada Ground Water Association	Written testimony.
AB 80	F	Doug Busselman	Nevada Farm Bureau Federation	Written Testimony.