

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Fourth Session  
May 9, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:02 a.m., on Wednesday, May 9, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Marilyn K. Kirkpatrick, Chair  
Assemblywoman Peggy Pierce, Vice Chair  
Assemblyman Kelvin Atkinson  
Assemblyman Bob Beers  
Assemblyman David Bobzien  
Assemblyman Jerry D. Claborn  
Assemblyman Pete Goicoechea  
Assemblyman Ruben Kihuen  
Assemblyman Harvey J. Munford  
Assemblywoman Bonnie Parnell  
Assemblyman James Settlemeyer  
Assemblyman Lynn D. Stewart  
Assemblywoman RoseMary Womack

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Chad Christensen, (Excused)



**GUEST LEGISLATORS PRESENT:**

Assemblywoman Francis O. Allen, Clark County Assembly District No. 4  
Assemblyman Harry Mortenson, Clark County Assembly District No. 42  
Senator Mark E. Amodei, Capital Senatorial District  
Senator Bernice Mathews, Washoe County Senatorial District No. 1  
Senator Dean A. Rhoads, Rural Nevada Senatorial District  
Senator Maurice E. Washington, Washoe County Senatorial District No. 2

**STAFF MEMBERS PRESENT:**

Amber Joiner, Committee Policy Analyst  
Scott McKenna, Committee Counsel  
Mary Kay Doherty, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Tracy Taylor, State Engineer, Division of Water Resources, State  
Department of Conservation and Natural Resources  
Jason King, Deputy State Engineer, Division of Water Resources, State  
Department of Conservation and Natural Resources  
Nancy Covey, Private Citizen, Clark County  
Sally Larimore, Private Citizen, Clark County  
Jim Donohue, President, Nevada Well Owners Association  
Kyle Davis, Policy Director, Nevada Conservation League  
Steve Walker, representing Truckee Meadows Water Authority  
Andy Belanger, Senior Management Analyst, Southern Nevada Water  
Authority and the Las Vegas Valley Water District  
Bob Cashell, Mayor, City of Reno  
Geno Martini, Mayor, City of Sparks  
Bob Larkin, Commission Chairman, Board of County Commissioners,  
Washoe County  
Jim Galloway, Member, Board of County Commissioners, Washoe County  
Fred Hillerby, Legislative Advocate, Sun Valley General Improvement  
District  
Fred Schmidt, representing Sun Valley General Improvement District  
Neena Laxalt, representing South Truckee Meadows General Improvement  
District  
Mike Carrigan, Chairman, Truckee Meadows Water Authority;  
Councilman, Ward 4, City of Sparks  
Michael Pagni, Legal Counsel, Truckee Meadows Water Authority  
Lori Williams, General Manager, Truckee Meadows Water Authority

Michael Pennington, Public Policy Director, Reno-Sparks  
Chamber of Commerce  
Jack Robb, Builders Association of Northern Nevada  
Rosanna Coombes, Interim Director, Truckee Meadows Regional  
Planning Agency  
Steve Bradhurst, Private Citizen, Washoe County  
Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance  
of Nevada  
Dennis Ghiglieri, Representative, Great Basin Water Network  
Tina Nappe, Private Citizen, Washoe County  
Charles Ragusa, Chairman, Voices for Truckee Meadows  
Ira Hansen, Private Citizen, Washoe County  
Leo Horishny, Private Citizen, Washoe County  
Pat Phillips, Private Citizen, Washoe County  
Richard Daly, Business Manager, Laborers' Union Local 169  
Toni Harsh, Private Citizen, Washoe County

[Call to Order, Roll Call]

**Chair Kirkpatrick:**

I have some strict ground rules when there are more than five signed in to speak. I will go over them before we get started so there are no questions. Speakers, you are either for, against, or neutral. When we call you up, if you are in favor, I want you to testify that you are in favor. If you are going to be proposing amendments to either bill I would like you to testify that you are neutral on an amendment. Please be mindful of the time, there are close to 70 people who would like to speak today. Please do not be repetitive. We do not do "he said, she said" in Government Affairs.

We will start with Senate Bill 274 (1st Reprint).

**Senate Bill 274 (1st Reprint): Makes various changes to provisions governing the State Engineer. (BDR 48-206)**

**Senator Dean A. Rhoads, Rural Nevada Senatorial District:**

Last session we created the 2005-2006 Interim Committee to Study the Use, Management, and Allocation of Water Resources (Senate Concurrent Resolution No. 26, File No. 100, Statutes of Nevada 2005), which I Chaired. We learned two things: one, there is no incentive in Nevada to save water, and two, we do not have many fines or laws to impose upon people for using too much or wasting water.

Senate Bill 274 (R1) was requested by this committee to allow the State Engineer to enforce state water law through the adoption of regulations for the imposition of administrative penalties in request for injunctive relief in the courts. The committee was advised the State Engineer's current enforcement authority is limited to criminal prosecution for misdemeanors. The State Engineer explained and convinced the committee that criminal proceedings are a slow, cumbersome, and ineffective way to achieve compliance. The State Engineer assured the committee that the regulations will provide for graduated fines so that the amount of the fine will be appropriate to the nature and severity of the violation. The courts would be the final authority. Any fines that are received will be deposited into the State General Fund.

**Chair Kirkpatrick:**

I would like to invite those who support S.B. 274 (R1) to speak.

**Tracy Taylor, State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources:**

[Read from prepared statement ([Exhibit C](#)).]

The amendments address concerns from the community well owners in the Las Vegas area. First, fining is to address statewide issues of non-compliance and illegal use; it is not just for overuse of community wells. Some examples of when we have not been able to get compliance is Washoe Valley, where every year a person digs a trench out of the bank and takes all of the water out of the ditch. This person does not have any water rights. This has been going on for five years. We refill the trench every year and are still in court. Another person was taking all the water out of his diversion structure on the Humboldt River. It took three years for a judge to put the person in jail to get compliance. The fining ability would allow us to get compliance quicker and easier.

An example of a community well is four houses on one well. A problem with community wells is how to determine which user is overpumping? The amendments ([Exhibit D](#)) address that issue. [Read first amendment.] The amount of water that is allocated is one acre-foot per residence per year. This is a generous allocation compared with the majority of users in the basin. Residents served by water purveyors in the Las Vegas area use less than seven-tenths of an acre-foot annually. In the north, it is dependent on lot size, but ranges from twenty-eight hundredths of an acre-foot for small lots to five-tenths of an acre-foot for average lots. There is every opportunity to be in compliance.

**Jason King, Deputy State Engineer, Division of Water Resources,  
State Department of Conservation and Natural Resources:**

[Read from prepared statement, ([Exhibit E](#)), handed out flowchart ([Exhibit F](#)) and draft regulations ([Exhibit G](#)).]

**Assemblyman Goicoechea:**

Do you have an estimate or approximation of how much it would cost to purchase and install a water meter?

**Tracy Taylor:**

I think meters run \$300 to \$500, and with installation it would be \$1000.

**Assemblyman Goicoechea:**

Would it be a finable offense if a meter failed, depending on the structure of the meter and the magnet?

**Tracy Taylor:**

I do not believe so. If we never collect money, we do not care. We want to achieve compliance.

**Assemblyman Goicoechea:**

Did I hear you say that the duty on a domestic well would be changed?

**Tracy Taylor:**

No, the duty of the community wells is one acre-foot per residence. Domestic wells are still two acre-feet.

**Assemblyman Goicoechea:**

It sounded like you were going to submit these draft regulations to the Legislative Commission, but clearly, you would not do that until you had the work session and so forth.

**Tracy Taylor:**

That is correct.

**Assemblyman Goicoechea:**

I appreciate your bringing the amendments forward. It should resolve many of the concerns I have heard about the community wells.

**Assemblyman Beers:**

What would be the cost of reading the meters? Would additional personnel be needed?

**Tracy Taylor:**

No, we have meter readers in the Las Vegas area who could read the additional meters.

**Assemblyman Beers:**

Why the difference between domestic and residential wells? Are domestic wells for farm use?

**Tracy Taylor:**

Domestic wells are the only type of use that the State Engineer does not permit. Community wells are permitted rights by the State Engineer's Office. Domestic wells by statute are given a maximum use of two acre-feet per year, which is 1,800 gallons a day. When one is allocating water, one wants to allocate the amount believed to be used. That is why community wells are allocated one acre-foot.

**Assemblyman Beers:**

That comes out to how many gallons for those community wells per residence?

**Tracy Taylor:**

It comes to 1,000 gallons per day.

**Chair Kirkpatrick:**

I have heard both sides of this. If you are a community well person and are getting shortchanged, you have a problem with this but if you are the well owner who is using the excess water, you have a problem. I want to thank you for your amendment. Yesterday we passed out a bill that is on General File for Thursday, which states that regulations have to come before the Legislative Commission first, and then go out for workshop and back to the Legislative Commission. One of the biggest concerns was the rules would continue to get the workshops, so I want it on the record that the workshops would be important and be where the workshops need to be, whether in Elko or Carlin.

**Jason King:**

We also have regulations within our Division for well drillers and dam safety. We see this paralleling that process in that we do go to Elko, I think we went to Ely, Carson City, and Las Vegas. We can go to more cities if need be. It is our intent to go throughout the State, maybe twice.

**Assemblyman Goicoechea:**

The legislation would preclude you from having a work session and a hearing on the same day. My concern with that bill was it would require you to go to Elko

and have a workshop, and then return if you were going to have a public hearing. Now they will have the work session in the morning and hold the formal public hearing in the afternoon. The legislation that is being proposed would say that you could not do that. We want to ensure that it will not duplicate trips for you, but would not stop you from coming.

**Nancy Covey, Private Citizen, Clark County:**

I appreciate the opportunity to offer my comments in opposition to S. B. 274 (R1) as it is currently written. Given the ongoing drought in the southwest and the need to conserve our water resources, I support the purpose and intent of this bill, but I have two concerns about the fair application of the provisions of S.B. 274 (R1) and one concern about the basis upon which fines will be assessed.

Those of us who depend solely upon groundwater to meet our basic living needs have a vested interest in using water wisely and staying within our mandated water allocations. That is why I believe the provisions of S.B. 274 (R1) should also apply to domestic well users who are extracting groundwater in areas, such as the Las Vegas Valley, where the groundwater table is being depleted.

As presently written, domestic wells are exempt from S.B. 274 (R1) because domestic wells, unlike community wells, are not required to be permitted or metered. Nevertheless, domestic wells are currently restricted to 1,800 gallons per day. I should note that Senate Bill 275 seeks to change the allocation for domestic wells from 1,800 gallons per day to two acre-feet per year. Despite the fact that domestic wells are restricted in the amount of water they can use without the requirement for a totalizing meter at the well head, there is no way to measure whether they are in compliance. Under current *Nevada Revised Statutes* (NRS) the State Engineer may require a domestic well to be metered if he suspects a well owner is abusing his allocation. It is unclear under what circumstances it would trigger the State Engineer to require the metering of a domestic well. I am not sure whether there has ever been a case in the Las Vegas Valley when a domestic well owner has been required to install a meter. For purposes of fairness and consistency, all domestic wells in areas of groundwater depletion should be metered and monitored for compliance in the same manner as permitted wells.

I am concerned about how the fines for overpumping will be assessed against community wells. Community well owners have been told repeatedly that the State Engineer lacks the authority to assess fines against individual well users. The fines would be imposed at the permit level against all well owners. This approach would obviously be unfair to those water conscience community

well users who stayed within their individual water allocation. The proposed amendment seems to address this issue, so I support the amendment because it will eliminate this type of inequity.

It is unclear how a fine for overpumping will be applied on a daily basis. Currently community well owners are notified of overpumping on an annual basis. The water used fluctuates depending on the season. Water use typically exceeds the daily allocation in the summer and is lower than the allocation in the winter, so how will a daily fine of up to \$10,000 be assessed? The Advisory Committee on Ground Water Management had discussed using a graduated or sliding scale based on the amount of water overpumped with repeat offenders being subject to additional fines. Such an approach makes more sense than the imposition of a daily fine.

**Chair Kirkpatrick:**

So we do not get the echo on the microphones, will you please nod yes or no. You are okay with the amendment?

[Ms. Covey nodded her head yes.]

You would like to see domestic wells included?

[Ms. Covey nodded her head yes.]

If this bill were to pass, you would like to be part of the regulation process?

**Nancy Covey:**

I definitely intend to be part of the regulation process, but one of the problems is the daily fine might be appropriate for damming up a river or diverting water from a stream, but I am unclear how it would work with a community well that is overpumping since owners are notified on an annual basis and water use fluctuates through the year. So, for community wells you might want to reconsider if the daily fine is the most appropriate.

**Chair Kirkpatrick:**

What section of the bill are you referring to?

**Nancy Covey:**

Section 3, (a) "fine not to exceed \$10,000 per day for each violation as determined by the State Engineer." I would like to see something for community wells that would be based on a graduated scale based on the number of gallons that were overpumped.

**Assemblyman Goicoechea:**

The fine is not to exceed \$10,000 per day. As we go through the regulatory process it will establish how those fines would be imposed and at what level. All S.B. 274 (R1) does is allow for fines up to \$10,000 a day. It does not say that if you are over 10,000 gallons you would get the maximum fine.

**Sally Larimore, Private Citizen, Clark County:**

I am against S.B. 274 (R1) as written, but am in favor of the amendment. Senate Bill 274 (R1) as written is extremely broad and tends to address water misappropriation issues across a large spectrum—from river and stream diversion to agriculture, logging, mining, and families on community wells. Since it is a one-size-fits-all legislation, its approach to implementing penalties is particularly heavy-handed as it pertains to proposed fines for residential users who depend on groundwater on a daily basis. It punishes the innocent law-abiding community well user or users on a permit along with those who are overpumping.

The State Engineer's proposed amendment takes a step toward rectifying the basic unfairness of S.B. 274 (R1) by requiring that the State Engineer prove which user or users, on a permitted well, are overpumping. It provides the State Engineer with the authority to require any or all users on a permitted well to install submeters that will reflect their individual usage so the good actors can be differentiated from the bad. The provisions in the amendment are crucial to providing a fair basis for enforcing overpumping restriction. However, the amendment provides that the cost of the submeters be born by the property owner regardless of who is at fault for overpumping. For families with modest means and seniors with fixed incomes, the cost of installing a meter, parts, and labor would impose an unfair hardship on their finances. I therefore urge the Committee to include in the State Engineer's amendment a provision that mandates that property owners who are required to install submeters be reimbursed for this expense through the Groundwater Management Fees that each well user pays on an annual basis. The proposed fine structure in S.B. 274 (R1) treats permitted well users more harshly than municipal rate payers who pay a graduated scale for water use in excess of a base allocation. I believe the current allocation is about 13,000 gallons a month, thus municipal rate payers can use more water without ever facing severe penalties such as the \$10,000 a day fine and/or up to two times the cost of replacing the excess water they used. Furthermore, domestic wells are neither permitted nor monitored so they are able to avoid any penalties for overpumping. This is clearly an inequitable situation. I strongly urge the Committee to include in the State Engineer's amendment a provision that imposes a graduated penalty structure for overpumping. This approach was recommended by the Las Vegas Valley Groundwater Advisory Board last year and is much fairer than what is

proposed in S.B. 274 (R1). If these recommended modifications are incorporated and adopted into the amendment, they would provide a reasonable and balanced approach to enforcing water restriction on permitted wells.

**Jim Donohue, President, Nevada Well Owners Association:**

We are in support of the legislation because we believe the mechanism that is currently in place is not workable. We suggest that no residents be fined for any violation that does not involve more than two acre-feet of water. The intent is to remove the minor problems with the allocated thousand gallons per day places. We do not think lower-level users should have their permit levels ignored, but there are other mechanisms to fix minor infractions. We do not need to shotgun butterflies.

The regulation as proposed will have a propensity to hit an unusual group. It will hit large families, ten-bed nursing homes, and people with one acre lots. It is also shown in the State Engineer's studies that the average usage for a half-acre is 1.3-1.4 acre-feet per year. The State Engineer did a study in the northwest, so we know that the average user on a half-acre lot would be in violation of the permitted limit. Rather than enforcing unachievable compliance, we suggest that the limit start at two acre-feet and go up from there. This will catch the real violators.

The well owners have gone after these people on occasion without success. The State Engineer does not have a sufficient set of tools. We have pointed out people who are obviously using three and four acre feet, but the State Engineer has no way of proving such violations.

**Assemblyman Settlemeyer:**

You said two acre-feet. If the current allocation is two acre-feet, are you saying the users should be allowed to go 100 percent over their allocation?

**Jim Donohue:**

No, I am saying if the amount of water utilized is more than two acre-feet; the threshold for a violation is two acre-feet. Any amount, no matter how small, greater than two acre-feet would be a violation.

**Assemblyman Goicoechea:**

I know where you are coming from, but there are probably a number of water users that would like to be able to exceed their appropriated amounts.

**Chair Kirkpatrick:**

Let us say one has lived in an area for years where there has been a community well, and then a new person moves in. Is there some documentation that shows what the new resident's acre-feet allocation is supposed to be? How does that work?

**Jim Donohue:**

As a real estate agent, I can say that virtually no one in the northwest who is buying a home on a domestic or community well has the faintest idea what the limits are. We still see ads that say all the water you can use for \$50 a month. The State Engineer has made a cogent attempt to get this information out, but this is buried in the arcane literature in the county records. Even if you get the information, you cannot read it. It is couched in terminology that is not discernable by normal human beings.

**Kyle Davis, Policy Director, Nevada Conservation League:**

The Nevada Conservation League is in support of the bill. We believe in the importance of water and water conservation. We support the idea of giving the State Engineer a tool that will allow him to take care of violations of the State water law. The language in the bill and the amendment provide enough latitude and guidance so the regulations will work while still ensuring there is still some kind of an enforcement mechanism.

**Chair Kirkpatrick:**

You are in support of the amendment?

**Kyle Davis:**

Yes, we are in support of the bill and amendment.

**Steve Walker, representing Truckee Meadows Water Authority:**

The Truckee Meadows Water Authority (TMWA) supports S.B. 274 (R1). We think it will provide a better tool for water management in the State. The Board has not reviewed the amendment, but it seems reasonable and a good public process to get the rules out and to be fair.

**Andy Belanger, Senior Management Analyst, Southern Nevada Water Authority and the Las Vegas Valley Water District:**

We too, are in support of S.B. 274 (R1) and the amendment proposed by the State Engineer. We believe there must be some mechanism in state law to require enforcement with the terms "permits" and "with the provisions of State law." We believe this approach is fair and provides the State Engineer with the latitude and flexibility he needs to address each situation accordingly.

It provides sufficient protections to ensure that the fines are based on the nature and gravity of the offense, whether it is a first time or a repeat violation.

During the interim and throughout the year, I help manage the Advisory Committee for Groundwater Management in the Las Vegas Valley. That committee has studied this issue for the last four years. It has been a long process: there have been over 20 meetings where the topic of fining has been discussed. The well owning community has come a long way in understanding the necessity of following the permit terms and State law.

I would like to respond to some of Ms. Covey's comments. Domestic wells are subject to Nevada water law, but there is an exemption in the law that they are not subject to the permit if they do not exceed two acre-feet a year. If a well owner uses more than two-acre feet per year, then he would be subject to the same fines and mechanisms of law that any other well owner would be, including us. The Las Vegas Valley Water District has 40,000 acre-feet of groundwater rights in the Las Vegas Valley. If we overpumped that allocation, we would receive a fine just like anyone else. This law would be applied evenly to all people who use water.

**Assemblywoman Parnell:**

The issue of litigation of our State water law has been talked about. I think it is the most litigated in the country. Would passage of this law decrease this? Would it clarify water law so we would not always be in the middle of litigation?

**Tracy Taylor:**

It would drastically reduce the amount of litigation.

**Assemblywoman Francis O. Allen, Clark County Assembly District No. 4:**

Ms. Covey and Ms. Larimore are my constituents in the northwest part of the Las Vegas Valley. That is where most of the community well owners reside. They did a good job articulating their concerns, particularly about the potential of the daily fine assessed only to community well owners. The amendment submitted by the State Engineer sounds like it addresses those concerns. Should the Committee decide to move on the bill, I would like to be part of any working group you might have because it directly impacts my constituency.

**Assemblyman Harry Mortenson, Clark County Assembly District No. 42:**

I support the bill. We must have some kind of monitoring of wells. I am in support of an amendment suggested by the Well Owner's Association, which is that there should be a threshold at two acre-feet of water, and no one is to be fined until he exceeds that level. The State law states that a household should

be entitled to two acre-feet but households on community wells are not getting that amount. They are limited to one acre-foot, and I happen to be one of those people. I live on an acre of land, and the State Engineer required that I put in a meter, but I put three extra in to monitor each house on the community well. On my acre I have a horse, a burro, peacocks, and a house, I use two acre-feet of water. I am going to be fined under the law if the State Engineer gets the ability to fine. I have stopped watering five trees so that I try to achieve the smaller amount allocated to me. This is compared to the man down the street who has one well, the same size lot, and no meter.

**Chair Kirkpatrick:**

Is there anyone else who would like to testify on S.B. 274 (R1)? [There were none.]

**Assemblyman Claborn:**

Maybe I did not hear Mr. Mortenson correctly, but if I use two acre-feet of water, I go into a different tiered system, and it costs me a whole lot of money. We do get penalized. The fact is that I am on North Las Vegas water.

**Assemblyman Settlemeyer:**

A question for Mr. Taylor. Will it apply to residential areas served by water systems like Mr. Claborn's?

**Tracy Taylor:**

Are you talking about systems that provide water by water purveyors?

**Assemblyman Settlemeyer:**

Correct.

**Tracy Taylor:**

Yes, their wells are metered. The purveyor would be the one responsible.

**Chair Kirkpatrick:**

We will close the public hearing on S.B. 274 (R1). Ms. Covey and Ms. Larimore, we will take your thoughts into consideration. Ms. Allen will be working with the Committee to address your concerns. We will move on to Senate Bill 487 (2nd Reprint).

**Senate Bill 487 (2nd Reprint): Revises provisions relating to water resources in certain counties. (BDR 48-183)**

**Senator Mark E. Amodei, Capital Senatorial District:**

The Senate Concurrent Resolution No. 26 of the 73rd Session committee was created by 63 votes in the 2005 Legislative Session. It was to study water issues statewide and had a mission to study water issues specifically with respect to Washoe County. The committee was formed after both Houses unanimously said that there needs to be some thought about water issues. After the committee met, we created this document ([Exhibit H](#)). It is nice to read how it was formed and what it was asked to do.

Sixty-three members of the 2005 Legislature said, "We want to form a committee, go to Washoe County, and look at the issues that are in that legislation." The Legislative Commission's Subcommittee to Study the Feasibility and Advisability of Consolidating the Water-Related Services in Washoe County was formed, went to Washoe County, looked at those issues, and held six meetings. In the first meeting, we took off most of what you asked us to. The reasons were practical. In six meetings in an interim, you cannot fully explore all the issues dealing with wastewater, vertical integration to the retail level of water purveyors, and all of the other things. So we concentrated on a few specific areas. One of the first things that the subcommittee did was ask the major stakeholders to form a working group: the major water purveyors, city councils, county commissions, and all of those kinds of people, and report back to us with their recommendations. The reason for that is obvious. These people deal with those issues everyday. We deal with it only 120 days in the context of our assignments and interim assignments. We said it ought to scare you to think that those of us who have been assigned to an interim committee, who come from our different walks of citizen lives, are going to make these sorts of decisions without major input from you who deal with these issues everyday.

Those working groups met, fought, and a lot of times said "Why are we here?" but what happened is that those people started to talk to each other. They talked about ways to make the Legislature go away. Those talks centered around the discussion that maybe these people should work together on one of the primary quality of life issues affecting the second largest urban area in the State. We had some presentations from the Southern Nevada Water Authority (SNWA) telling the committee how they were formed, the circumstances surrounding why they were formed, and the structure for their operation. We conferred with SNWA not because the bill before you emulates the Southern Nevada Water Authority, but because we wanted to learn from their experiences 16 years ago when the people in Clark County experienced similar problems in terms of divergent efforts to supply different purveyors.

We had the six meetings, and at our final work session meeting, and by unanimous vote, decided to form an entity to handle issues at the regional wholesale level. From the Legislative Counsel Bulletin No. 7-12, recommendation one: the proposed regional water resources entity will be charged with developing, acquiring, and managing new and existing water resources. We wanted to talk about a coordinated approach and conjunctive use to maximize and respect the resource. There is a river that flows through the Truckee Meadows. There is also groundwater. Both are similar to, but not exactly the same as Clark County's surface and groundwater resources: there are times of the year when it is better to use groundwater and times of the year when it is better to use surface water.

We talked about what some people refer to as scheduling. We want to have an entity which will create a policy regarding conjunctive use. We did not state that the conjunctive use will be A, B, C, and D, just that the Legislature thinks there should be one that is similar to Clark County for the second largest urban area in the State.

The committee wanted to see the plan for regional infrastructure. We do not need two water mains under the same street; we do not need excess capacity for water treatment. We want the water purveyors to be efficient in how they plan, provide for, and finance infrastructure that is regional in nature. One of the first things taken off the table was distribution. They thought the committee was going to consolidate water delivery vertically in the Truckee Meadows. We reassured them there would still be the South Truckee Meadows General Improvement District (GID) and the TMWA, Washoe County, and the Sun Valley GID, but we did not want two companies building two mains in the same neighborhoods. We want to be efficient in a regional sense, similar to what happened in southern Nevada when the Legislature funded the second draw and storage facilities, to do that as one entity, and then let the individual purveyors take care of the retail transmission.

One of the biggest success stories in Clark County has been the conservation plan that the SNWA put into effect. I make that statement based on presentations made during the regular session and during this interim committee. By traditional northern Nevada standards, the Las Vegas Valley was out of water a decade ago. Without importing major new sources of water, they have continued to grow at rates that made Nevada the fastest growing state in the nation. That was accomplished with water management and conservation. The committee decided that this new entity should have a water conservation plan. The committee did not specify what the plan should be.

The bill states the committee wants the local purveyors to work together, have an entity, and work on conservation and scheduling. What the local purveyors decide to do should be the responsibility of the local officials: the people closest to the issues. These are the same people responsible for planning and zoning.

The committee did not hear anything about growth, we looked only at water. One is related to the other, but we did not say this coordination needed to happen to support growth. The testimony before the Senate Committee on Natural Resources was that there is enough water for about 600,000 people in the Truckee Meadows and existing planning and zoning would accommodate about 1.2 million people. I am not going to say whether that planning and zoning is a good or bad idea, but I will not argue with the fact that in Washoe County there is water for about 600,000. If there are planning and zoning approvals by the same people who are doing that job, and they have made those judgments, then you all should work together on water. If you do not you will face the question, when developments want to support existing planning and zoning, do they want to be competing with three others in the some community. That creates situations like \$50,000 an acre-foot for water. Some may argue that a problem is for developers, but developers do not build houses unless there are people looking to buy. Some of those homes are purchased by those that are already residents. If the people in the Truckee Meadows want to reverse planning and zoning decisions, have no growth, not import water, and not use public dollars to pay for any of this, then the locally elected officials would be more than capable of being responsive to their constituents. We are not mandating action or no action.

Let me review the Board. The Board started with seven members, but there are now nine. Two members of the Washoe County Commission, two members of the Reno City Council, two members of the Sparks City Council, a member of the Sun Valley GID, a member of the South Truckee Meadows GID, and a member of the Truckee Meadows Water Reclamation Facility (TMWRF). It was changed from a two-thirds requirement because there was a concern in the last day in the Senate that there were going to be political games with the bill.

When the committee finished making its recommendations, we released the bill draft request (BDR) while still in draft form to all major stakeholders. We received input and modified the bill draft from their suggestions. The original S.B. 487 (R2) had already been out and vetted once. I went into the Legislative Counsel Bureau and asked why there was a two-thirds requirement, and the response was that the TMWRF member is not elected. Only if all the members of a board are elected is the two-thirds requirement lifted. The difference between the first and second reprint was to elect the

TMWRF person. So now the board is made up entirely of elected people who are directly answerable to locals.

The final part is that there is an ongoing oversight provision. It is very important for western Nevada, since it is talking its first step into something regional, that it is done right. That is because county lines mean less and less up here. The Truckee River also has the Derby Ditch, which flows over to the Carson River. This makes the regional approach more important. Water does not care if it is in the City of Sparks or Storey or Lyon Counties.

You will hear people say "It is not broken, why are you fixing it?" but I would submit a fix is necessary when jurisdictions are suing each other because one has done planning and zoning and the other has the water service and will not serve the other. The Regional Water Planning Commission is folded into this new entity. It was originally created by the State Legislature along with the Regional Planning Agencies in Washoe and Clark Counties. This is what the Nevada Legislature does: helps folks think regionally. We spend money trying to attract people to this area. I would like to think that the Nevada Development Authority and the Economic Development Commission are working together in the most efficient way possible, so that we respect the resource, and they are as affordable as possible. I agree there should be tiered pricing because water is a precious resource. Setting fees that reflect how much is used and why it is used is appropriate throughout the entire intermountain west.

I want to do a couple of things on the clichés. One is rates and having growth pay for itself. If there is development in Washoe County, the developer has to pay for the water already in someone else's inventory or bring water in. Nothing in this bill changes that or says the developers get water for free. It says there needs to be a coordinated approach to getting the water.

We have been criticized that the committee does not know what is being done on this or that. The reply is "Do you want local control, or do you want the Legislature to do it chapter and verse?" The bill clearly errs on the side of local control, and if someone is upset then I disagree with him. The bill allows those who are making the planning and zoning decisions and are the closest to their communities to make those value judgments themselves.

When the Regional Water Planning Commission was folded in, there was a voluntary domestic well program. The reason it is voluntary is domestic well folks do not like to be told what to do, as witnessed by the testimony on the previous bill. So we folded in that voluntary program because no one wants to be caught telling someone what to do.

One of the amendments that came out of the hearings is in Section 29, subsection 19 "Exercise the power of eminent domain in the manner provided by law for the condemnation . . . ." One of the concerns was this entity would take water, so the end of this subsection states "except that the power of eminent domain may *not* [emphasis added] be used to take: (a) any water right;" not domestic, any water right "or (b) any property of a public purveyor without the consent of that public purveyor." If there are more protections needed in the eminent domain area, please let me know. It continues the voluntary program if someone's existing well goes dry and puts into statute these eminent domain protections, which is unlike any other regional water entity.

There has been literature sent to domestic well owners in northern Washoe County that states the Huns are coming. I ask that those who claim that show me in the bill. We put six or eight things in the bulletin which was turned over to the bill drafters, and it came back at 29 pages. When an entity like this is created, there is boilerplate language that goes into the bill, so when some claim that this is much more extensive than the committee thought about, the items the committee talked about are in here, but there is structure for the statute that goes into the drafting.

This bill will require the people of the Truckee Meadows to spend public money to acquire water. If the nine people on the Board decide to spend the money, then it does require that. The Committee may hear today that they think the information is based on the Honey Lake data 15 years ago, that it is a bad idea. Then the people need to tell their elected officials they do not want to use any money for water importation projects. Nowhere in S.B. 487 (R2) does it state that Truckee Meadows will import water with impunity, but if there is planning and zoning for 1.2 million, but water for 600,000, then either the planning needs to change, or more water needs to be found. This bill does not state where, or how to find that water or what kind of money to spend for it. The bill leaves that responsibility to the Board.

One might ask why people are so loath to have their local elected officials making these decisions. I would say, "If you do not like what your elected officials are doing, get rid of them."

Fifteen years ago if one talked to the people in the Las Vegas Valley Water District, they said they were at a crossroads and at a serious point in terms of the vitality of the region. This bill is an attempt to do something appropriate for the Truckee Meadows before the Truckee Meadows, as the cultural, economic, and regional anchor for western Nevada, gets to that point. If this issue is left until it does get to that point, guess where they are coming for water.

Even though the Las Vegas Valley Water District did their coordination through a joint powers agreement, which is nothing short of amazing, they still had to come to the State Legislature to implement that agreement. One of the amendments is for a joint powers agreement, which is fine. There is no magic in the legislation saying it will be done. They did do it on their own, and asked for time, which the committee gave, until the end of the year. Even the joint powers agreement is not done, we want something done. That is how the bill is before you now. Locals can keep working on it, and if they get something done by the end of the year, they still need to come to the 2009 Legislative Session to get a joint powers agreement done. I think it is time for leadership; I know this bill is unpopular, and there is a group of people acting like this is the antithesis of everything American.

Section 4, subsection 2 states ". . . facilitating unified and cooperative efforts to secure and develop additional water supplies, maintain and cooperatively establish policies for managing existing water resources and water supplies, provide for integrated regional water resources and management of water supplies." God forbid that were ever to happen in the second largest urban area in the State. The authority, if created, would have a centralized system of decision making. It would "assign service territories using a procedure based upon available resources," not politics or turf. It would "facilitate the effective coordination of land use and resource planning" and would "facilitate the effective and efficient planning, management and operation of facilities." If there are things that were missed and need to be fixed, then they ought to be fixed. That is why there are two Houses. I hope the Committee does not say "No" in the face of all the facts.

The last question is "Why does Senator Amodei care?" It is not because I have a bunch of water clients in Washoe County, I do not have a single water client in Washoe County. My conscience is clear and tells me that this is the right thing to do for the region. The region surrounding Washoe County is going to need something to emulate. I had to hold back the desire to apply this bill to other counties this time, too. I wanted to walk before we ran. I would hope that once the Committee has listened to all the testimony and weighed all of it, you would decide it is okay to take a few walking steps. We are not asking you to rubber stamp this Senate Bill. There were Assembly members that served ably on the committee that unanimously endorsed this concept. Put your thinking caps on and take an objective look at the bill and do what you will with the bill except to just say "No." It is not the best way to treat the most important resource in western Nevada.

I have to leave and run another committee, so I will come to your office if there are any questions after the hearing.

**Senator Maurice E. Washington, Washoe County Senatorial District No. 2:**

Senator Amodei has done a great job in presenting this bill and its issues and leading the S.C.R. No. 26 of the 73rd Session subcommittee. The list of the participants is in this report as well. We found it informative and an opportunity to provide some leadership and give the local entities the opportunity to exercise some home rule.

The provisions of the bill are self explanatory. We in the Truckee Meadows find ourselves in the same situation that Clark County found itself some decades ago. The Las Vegas Water District was created in 1947. They were using groundwater, but because of growth, needed to find other sources. That led to the creation of the SNWA. We looked at the SNWA because they are a blueprint and have accomplished some great feats. They were able to manage the resource and continue to allow the Las Vegas Valley to grow at a rate that is unprecedented. We are faced with the same situation; there are some pockets in the Truckee Meadows that are growing at 15 percent. Water then becomes a precious resource, and managing it becomes pertinent. We are not trying to emphasize growth, but rather the need to make sure we have the resource in order to meet the demand.

I would encourage each of your members to get the S.C.R No. 26 of the 73rd Session report and look at the recommendations that came out of the subcommittee. Each of those recommendations is included in the bill. Within those six meetings, we did some things that will be beneficial to the citizens and voters within our community. This is not uncharted water. There are other examples, even within the Truckee Meadows, of other legislative representatives who have embarked upon collaboration between local government and entities to develop an entity that would benefit its users and voters. That is the airport authority. There are bills dealing with McCarran Airport, looking at the collaboration of your local governments, whether it is Las Vegas, North Las Vegas, or the County Commission to develop an entity that would oversee the operations of McCarran airport. We were just ahead of the curve because of fighting to determine how the Reno-Tahoe airport was going to be used.

This is just a mandate to say to the local governments to get together on their own, or the Legislature will be hard pressed by the voters to come up with something. I think the local governments received the message and are here today to testify.

**Chair Kirkpatrick:**

Should we direct our questions to the people that are coming up?

**Senator Amodei:**

I will respond to any questions your Committee has. If you will have the members contact me I will respond. The Senate is hearing Assembly Bills, so I want to go. The technical questions can be answered by the four purveyors that are here. I provided a copy of an editorial ([Exhibit I](#)) from the *Reno Gazette-Journal* that ran in June 2006 because they came out and editorialized against us a month ago. The Committee might ask them what changed their minds since no one talked to us before either editorial.

**Senator Washington:**

I would like to echo what Senator Amodei said. If there are issues that may need to be addressed, please speak to me. Also, Senator Mathews's leadership was invaluable and her support is appreciated.

**Senator Bernice Mathews, Washoe County Senatorial District No.1:**

I am in support of the bill. We spent a whole interim going over these points and recommendations with the stakeholders. I am concerned that people are now backing out. I know when we get new information people do that, but we spent a summer I could have spent vacationing, trying to get this water bill right.

**Bob Cashell, Mayor, City of Reno:**

I am here to support S.B. 487 (R2). The first reaction I had was "What is this all about?" But the more we worked with the committee the more I realized that this is something we need. We need to work together. I am a voting member of the TMWA. I know that the City of Sparks, Reno, the County, and TMWA all agreed to support this bill. I think it is something that needs to happen. Senator Amodei gave a thorough presentation on the bill this morning. We worked on the committee all summer, and attended all six meetings.

We have no intention of taking anyone's wells or rights. The legislation will not allow us to do it anyway.

**Geno Martini, Mayor, City of Sparks:**

The Sparks City Council and I support the bill as written. This has gone through a long process, and it is something we need. It leaves the local entities in charge, and all four water purveyors are included in the bill.

**Bob Larkin, Commission Chairman, Board of County Commissioners, Washoe County:**

Thank you for this opportunity to address the Committee this morning on S.B. 487 (R2). For more than a year, water providers and local governments in Washoe County have been working to develop a more regional approach on

water resource management, planning, and water leadership. Water leadership has been significantly left out of Washoe County's planning and resource management over the years. This bill will bring water leadership to northern Nevada and Washoe County. Our goal has been to improve the efficiency of our management of existing water supplies and provide a regional venue for planning for new water supplies to meet growing demand.

[Read from prepared statement ([Exhibit J](#)).]

Again, the Washoe County Commission is fully supportive of S.B. 487 (R2).

**Assemblyman Bobzien:**

Commissioner Larkin, could you share with us the evolution of the bill from your perspective as a County Commissioner? I know there were concerns on the County level at one point, and it is my understanding that they have been worked out.

**Bob Larkin:**

The precipitous point that was the genesis for this bill was a water auction the Washoe County Commission conducted in the North Valley area. It was water that was left over. In one auction, no one wanted the water at all. Previous auctions had yielded somewhere in the neighborhood of \$2,000-\$3,000 per acre-foot. We anticipated a similar response. A number of factors for the price of water rights came into play, and we saw bidding start at \$20,000 an acre-foot. I asked the other Commissioners "What is going on here?" I think the bids topped out at \$39,500. That was a public auction. That set the floor for subsequent water right sales in the region, and I heard that water rights went as high as \$90,000 an acre-foot. The prices have subsided. The latest sales are in the neighborhood of \$18,000 an acre-foot.

Constituents were concerned, and we started to see hoarding. The Commission was not in the position to put a framework forward, so at the conclusion of the 2005 Session the State Legislature saw the wisdom of establishing an interim committee to get things going. We would have eventually gotten to this point, but I think it would have taken many more years and potentially another crisis. I am thankful that the State Legislature put together an interim committee that then came to us and said, "We want to start working on this." There was foot dragging at the beginning, and people said it was not their idea, so they did not want to participate. Senator Amodei pressed forward and brought us to the table, so the three governing bodies were talking about more issues. We worked collaboratively on a number of other issues that did not require state intervention, such as the Truckee Meadows Flood Control Project.

As this progressed, the Commission started to feel more at ease, and the initial concerns were addressed. There are some legacy systems that were in play in the 1990s that worked well when we did not have the entire infrastructure connected and all of the interconnections between water purveyors that we have today. Legacy, by definition, is in the past, and we need to look toward the future. We need to look forward to what we can do with the system as a whole and respect the existing users and purveyors, which this bill does. We are committed to making this bill work.

That is the process we went through. The committee was very fair as they continued to come to us; we went to all of the meetings. We had dozens of meetings between the meetings. There was some disagreement about whether we should have a seven or a nine member Board. Part of that had to do with trust, and we are developing trust.

**Assemblyman Stewart:**

I was under the impression that this was the worst bill ever. I wish you gentlemen and your supporters would have given a little more information to the Committee ahead of time because we have received overwhelmingly negative information.

**Assemblyman Goicoechea:**

Commissioner Larkin, historically voters are hesitant to impose a tax or fee on themselves, so I am concerned about the amendment that the Northern Nevada Water Authority would have to go before a vote of the people before you could put a fee in place for generating funding. How would this authority operate if the voters rejected it?

**Bob Larkin:**

I do not have the specifics on how we would generate that, but it has been a tradition in Washoe County that we ask the voters before we tax them. We would encourage the State Legislature to honor and continue that tradition. There are other ways we can fund our operating costs, such as sharing staff. There are a number of opportunities we have talked about that the purveyors can address.

**Assemblyman Goicoechea:**

Given the water legislation that has come forward this session, the price of water is not going to go down. It could be said that you can handle the administrative portion of it, but when talking about a water authority, you are going to have to acquire water someplace and that is going to require money. I wonder how we are going to get there. I have received my share of emails, I

represent the eastern portion of Washoe County, but it was carved out of this legislation.

**Assemblyman Beers:**

I would say that 99 percent of the emails were negative. There was almost no input from anyone supporting the bill. It would have been nice to have some comparable information. I noticed that TMWA has lines in Churchill County. Has there been any conversation with those County Commissioners?

**Bob Larkin:**

No, there has not. The S.C.R. No. 26 of the 73rd Session did not venture into those particular waters. We are concerned with our own backyard, trying to get that straight and forward. We are not opposed to having conversations with other county commissioners however, we know approaching the subject of water in other counties is dangerous waters and we would not do that without oversight.

**Assemblyman Beers:**

This is going to have an impact. There is no wall at the county line saying the water is not going to cross.

**Bob Larkin:**

That is correct. We are not opposed to talking, but we are first trying to get our house in order.

**Assemblyman Beers:**

In the majority of the conversations that I have had, people have told me the State does not have to be involved to create this authority. So why involve us?

**Bob Cashell:**

The Legislature created the committee and we asked the same question at first. The more we worked together, the more we realized that it would help us bring everyone to the table.

**Assemblyman Beers:**

So you are saying that you would not play together unless we told you to?

**Bob Cashell:**

I am not saying that.

**Chair Kirkpatrick:**

I have one person who needs to report for surgery, so I am going to allow him to speak out of turn. Then we are going to have a ten minute break. Please give the Committee the opportunity to do what they need to do.

**Jim Galloway, Member, Board of County Commissioners, Washoe County:**

[Read from prepared statement ([Exhibit K](#)).]

I find this so compelling, in fact, that I am here this morning even though I am scheduled for eye surgery later this afternoon.

I would like to address some of the things that I did not get a chance to address at the Senate hearing.

**Chair Kirkpatrick:**

Are you going to go by sections of the bill?

**Jim Galloway:**

I am going to go by statements made to you. I would like to offer some rebuttal.

**Chair Kirkpatrick:**

I would say that we would have already gone to break. I am trying to get an idea of what the rebuttal will be, from the beginning of this bill at 9 a.m. or based on certain sections.

**Jim Galloway:**

Just from today so it should be fresh in your minds.

First, the statement that public utilities have not properly managed water rights for conjunctive use in order to gain the maximum use of those rights: This is incorrect. All entities practice conjunctive use. The TMWA rests wells whenever the river is plentiful; Washoe County has used reclaimed water for years for golf course irrigation, and it is building a stream water treatment plant right now so that wells can be rested when stream water is available. Washoe County has wholesale agreements with TMWA which back-up groundwater sources and has water wheeling [exchange] agreements with South Truckee Meadows GID, so there is no need to duplicate pipes and storage facilities. Sometimes South Truckee Meadows GID wells help Washoe County Department of Water Resources (DWR) and vice versa. We already have a division of service agreement to make sure all of this is accounted for and charged accordingly. A bill to force us to practice conjunctive use is unnecessary because we know we have to do it, and we are doing it.

It has been incorrectly alleged that Washoe County does not have water planning. We have a water plan and a water planning commission. This bill replaces that commission with one that will be less independent and more politicized than the one we have today.

There also appears to be an incorrect assumption that all new water importation has to be undertaken and subsidized by government entities or utilities somehow. Washoe County proved that was incorrect. About 10 years ago Washoe County decided, in the face of voter opposition and huge projected cost increases, to disengage from the Honey Lake water importation project. Over time, this was accomplished. No water from the same source, at no financial risk to the public will be brought into our populated areas by Vidler, which is a private venture. This is success, not failure.

Finally, you have heard about the water rights auction held by Washoe County, in which groundwater rights in a closed basin brought very high prices—over \$40,000 per acre-foot. It was suggested that somehow Washoe County was responsible in that auction for the high prices, and that Washoe County should have accepted much lower non-competitive offers instead of holding that auction. Washoe County never speculated on those water rights. It had previously used those water rights to irrigate a public golf course, and by switching over to irrigation by reclaimed water, the County was able to free up the groundwater rights for other uses in the marketplace, which included the housing market. The County was obliged to sell those rights at their full market value because of an agreement with Reno that the proceeds would go towards finishing the long-delayed North Valleys Regional Sports Complex. The high prices fetched at the auction were just a symptom of market conditions that sooner or later would have run up prices anyway. The basic problem that has driven water prices is that, as a region, we continue to issue more zoning than there is water.

**Chair Kirkpatrick:**

If there are portions of this bill that address that, I would like it to stay to the merits of the bill.

**Jim Galloway:**

I am going to go back to the merits of the bill.

I will talk about identified problems that have not been addressed in the bill before you today. One a prohibition against reallocation of water from existing utility users or well owners to other parties by use of eminent domain or any other means without the prior consent of the individual users.

**Chair Kirkpatrick:**

I am trying to be fair, and I think it is important that we have a fair hearing. I specifically laid out ground rules this morning and specifically said we were going to take a break at 9:45 a.m. because my Committee has been sitting here . . . .

**Jim Galloway:**

I would be happy to continue after the break.

**Chair Kirkpatrick:**

Mr. Galloway, may I finish? You keep cutting me off and I cannot stand that. I do not have any vested interest in this. I have a vested interest in making sure we have a fair hearing and that things move expeditiously. What I am asking and what I said this morning was that we would stick to the merits of the bill, being mindful of everyone's time. We have 74 people that still need to be heard today. I want to give them all that opportunity.

So again, I am asking, what section of the bill does this apply to and what portion of it do you not like? I think you are talking about Section 32, but I do not know the bill inside and out. I am giving you three more minutes.

**Jim Galloway:**

I cannot list it by chapter and verse; I can tell you only what is not in the bill. What section it is not in does not seem as critical as what is missing. In my three minutes I will say that there should have been a prohibition against reallocation of water from existing utility or well owners by any means, without their prior consent. You do not need to use eminent domain to reallocate water, most water users do not have water rights, they have a will-serve letter. The water rights are held by utilities.

There should have been a prohibition against taxing the general population that Commissioner Larkin mentioned. There should be a requirement that water demands of new growth must be paid for by new growth. There should have been Public Utility Commission (PUC) and Consumer Advocate jurisdiction put in the bill. There should have been a directly elected governing board because experience has shown these derivate boards, composed of officials that are elected to do something else, are not responsive to the public. An affirmative vote of the public should be required for the creation of this super-agency that is proposed by this bill. It is an unnecessary level of bureaucracy, and finally, there should not be a water bill of this type, this session.

Amending this bill further is not proper because at this stage it will go to a conference committee, and vital amendments and protections for the public will be stricken from the bill, and it could pass in the final hectic days of the session. That is why the public interest would best be served if this bill is not passed out of committee.

I thought I had more time than I did when you said I could come up and speak.

**Chair Kirkpatrick:**

Mr. Galloway, I gave you 14 minutes. I do not appreciate your coming in here and demeaning me. I do not appreciate your tone. We are going to take a recess. [Recess called at 10:02 a.m.].

[Back to order 10:24 a.m.]

**Chair Kirkpatrick:**

Those who are in favor of S.B. 487 (R2), I am going to remind you to stick to the merits of the bill.

**Fred Hillerby, Legislative Advocate, Sun Valley General Improvement District:**

We have been authorized to speak for our board. We would like to give you a quick background on the Sun Valley GID. The Sun Valley GID has been in place for 40 years, providing retail water services. Today there are 6,000 hook-ups serving 15,000 people. We have a five-member elected board, and we are the third largest retail purveyor in this region. We own our own water tanks, transmission, and distribution lines. We are the first fully metered water utility in the State. We have been involved with the S.C.R. No. 26 of the 73rd Session meetings since their inception, and we have been concerned that we are a party to this regional water authority and we are pleased that S.B. 487 (R2) allows for that.

**Fred Schmidt, representing Sun Valley General Improvement District:**

I have been representing Sun Valley since Sierra Pacific sold the water system to TMWA in 2003. Sun Valley GID takes its wholesale water from TMWA, and we also provide sewer and sanitation in the area. We are a comprehensive utility service.

The parts of the bill that were important to us, like the eminent domain provision, and the language that I offered as an amendment on the Senate side, ensures that the bill would not be used to condemn or take over an existing retail operation. We expect continuing business for the indefinite future. We also expect to be part of regional planning, and that is why we have insisted on a full voting seat on this board. One of the nine members will be a

Sun Valley elected official. There are a few other provisions that were amendments we offered on the Senate side, and with those amendments being adopted, we are comfortable that the bill will protect Sun Valley and its continued operation and make sure our rate payers do not pay for something we do not think they should pay for. We will have a full and fair say in whether we participate in future projects or not.

**Neena Laxalt, representing South Truckee Meadows General Improvement District:**

I want to echo the comments made by Sun Valley, that South Truckee Meadows GID (STMGID) also wanted to be a participating party on this board and has been given that privilege. I have offered an amendment ([Exhibit L](#)) that I have had no controversy with so far, so I assume that all parties are in agreement. Section 23.5 currently, does not have STMGID as part of the original authority. It was agreed upon in the Senate that it would be. The second change included in the amendment is in Section 37 deleting the words "General Manager of" STMGID because STMGID does not have a general manager. In lieu of that language I placed "A member of."

**Chair Kirkpatrick:**

Are you considered a public purveyor?

**Fred Schmidt:**

Yes, we are a public purveyor, and we are defined in the definition section as one of the public purveyors.

**Mike Carrigan, Chairman, Truckee Meadows Water Authority; Councilman, Ward 4, City of Sparks:**

I want to go on the record to say that the TMWA Board of Directors unanimously supports S.B. 487 (R2). There have been a couple of emails about rates, so I would like to cover growth paying for growth.

I am in my third term as a city councilman in Sparks, and I have run on a platform that growth will pay for itself. I am very aware of the situation; I have the ward that is growing the fastest in the City of Sparks.

The TMWA purchased the water company five and a half years ago from Sierra Pacific. It is owned by Washoe County and the Cities of Reno and Sparks. We have 86,000 customers and control 93 percent of the water. We find this bill to be an adequate start for getting us together to talk about regional issues, especially water. You will hear from people today that we will put growth on the backs of ratepayers. That is not true. Sierra Pacific did that and spread the costs among all ratepayers, but we separate the cost of growth, and every year

we look at the developer fees. Last year we found that some of our fees needed to be increased by 100 percent. One of the opponents to the fee hike was the Builders Association of Northern Nevada, who said they wanted to look at our information. We agreed and held off on the increase, and a few months later they agreed to the increase. We make growth pay for itself from water rights to the pipes in the ground—if you need it, you pay for it.

There was a question "Could we have done this by ourselves?" The answer is "No" because the Regional Water Planning Commission is in a section of the *Nevada Revised Statutes* (NRS) which had to be moved under this entity.

**Assemblyman Bobzien:**

Mr. Pagni has made the statement that there is nothing in the bill that changes existing water law when it comes to domestic well owners. I am still concerned about the practices that impact domestic well owners. Currently if you have a well and TMWA or the county is pumping nearby, my understanding is that if the well owner is feeling the impacts he can go to a mitigation board to seek some sort of relief. Would that practice be continued, and who would the point person be, would it be the purveyor, or the new authority?

**Michael Pagni, Legal Counsel, Truckee Meadows Water Authority:**

Domestic wells appear only once in the bill and that is in Section 37. That is to give them the existing seat they have today on the Water Planning Commission. It is evident from the planning and where new facilities are going to be constructed that domestic well owners are at the table and they have a voice.

Anytime a new well is put in place in the State, the State Engineer becomes involved. Section 58 of the bill is clear that the State Engineer's process is unaltered, so if a new well is going to go in, notices are sent out, and any neighboring well owners have the opportunity to protest and present whatever data they think is going to impact their wells. Those safeguards still exist.

There is a voluntary program that exists at the planning commission level that would still be in place. If a well owner wants to come to TMWA to say his well is dry, he does not want to deal with it anymore, and would TMWA service his property, this is the forum to do that. This is the mechanism that exists now and would continue.

**Assemblyman Bobzien:**

A well-owner would not go to the Authority, he would go to TMWA?

**Michael Pagni:**

He would go to the Water Planning Commission, which, through this bill, is the technical arm under the Authority.

**Assemblyman Bobzien:**

For mitigation issues they go to . . . ?

**Michael Pagni:**

They go to the Authority.

**Chair Kirkpatrick:**

Section 29 states "the Authority" has the ability to do items 1 through 24. I have concerns with some of those. For example, subsection 9, "Designate the service territories of the public purveyors . . . seeking water service on or after January 1, 2008 . . . ." We worked diligently on Assembly Bill 518 to provide a soft cap so the residents could be protected. If this bill were passed, all of the provisions to protect the residents, Section 32, subsection 2, stating "Fix the rates or rules of a public purveyor for the delivery of water . . ." and "water rights, facilities, acquiring water" ". . . or take any action which will impair any bond obligation of a public purveyor existing before January 1, 2008." That language tells me that after January 1, 2008, you could go out and get new bonds.

Let me use an example from my city, "Safe Streets 2000." The people who lived there initially were not affected, but for the next 25 years the new residents have to pay the additional amount, which pays only that bond. Whether or not it is something you want to do, is that possible to do? The rates of the residents of hypothetical Section A would not change but a new bond would be passed to address the growth in Section B. Now everyone would pay the 26 cents for the wastewater treatment that will eventually help everyone.

In Section 34, I do not understand the word "successor." Does that mean if you were to combine or with another water entity if a GID was to be incorporated into the county. Is that what it refers to?

There was a part in the bill that stated growth must pay for growth and it will be determined. How will it be determined?

**Michael Pagni:**

It can be difficult when one looks at the bill. It is the product of a year's worth of interim committee work, so to try to understand it on the first reading is not an easy task.

Read Section 29, subsection 9, in conjunction with Section 31, which talks about the service territories. What we hope the language accomplishes is a line in the sand. The purveyors were concerned that they have customers today that they serve and facilities that are bonded, so they continue to get revenues from those customers. They fix rates against their customers for certain facilities. They need to protect the status quo. In subsection 9 of Section 29 and Sections 31 and 32 pick the effective date of the bill as the date to draw a line. Whatever customers the purveyor has on that date, those are its customers and will continue to be its customers, and nothing will change that fact.

We supplemented Section 32, which talks about the limitations on bonds by saying this new authority cannot do anything to impair our bonds by taking a facility, customer, or a revenue stream that a purveyor has relied upon to bond against their facilities. The January 1, 2008, date is again the effective date of the bill. This language protects the existing service territories. Under Chapter 548, an agreement was made in 1995 between TMWA and Washoe County, in which we drew some lines where the service territories would be between these two entities only. Over the passage of time, some of these lines have become arbitrary TMWA has a line in the ground and could serve the customer, but it is a County customer or vice versa: the County has the facility right there, but it is a TMWA customer, so TMWA has to serve the customer. After that date, if a new customer comes in, instead of looking at that arbitrary line and servicing that customer on a political level, we will look at the resource and see what makes the most sense and who can best serve the customer. The second part of that date was to protect existing rates. That is Section 32, subsection 1. This entity cannot fix the rates of the purveyors. It cannot tell TMWA, Washoe County, STMGID, or Sun Valley GID what to charge its customer because the rates would still be in control of the individual purveyors and they retain their customers.

Your next question was, "Is it possible to bond?" This is the source of some confusion. First, Section 29, subsection 10, this entity, the Northern Nevada Water Authority, has no power to tax. It cannot assess, levy, or collect a tax and it cannot ever do that unless the Legislature gives it the power. What the Authority can do is assess charges against people who use the water resources of the new entity, not those of TMWA or Washoe County, but the new entity. That is contemplating that when this entity finds a new water source for

growth, when the developer comes in, the Authority can charge that developer for the cost of the water right. The second thing that the Authority can do is charge its wholesale customers who are TMWA, Washoe County, STMGID, and Sun Valley GID. That is who the new authority can charge fees against.

**Chair Kirkpatrick:**

Let me explain it from my point of view. I am a wholesaler in my day job. So when someone says diesel prices have gone up, I have to incorporate the increased cost and pass it on, whether to the person who orders five pounds or 200 pounds of cheese. The constituents' concern is the rate. There might not be a rate change, but would there be a surcharge or something else to pay for a facility that is coming on line? Will there be these kinds of pass-throughs to the customers?

**Michael Pagni:**

This Authority can bond only against its revenue streams. It is limited to revenue bonds. Rates and bonds are the same thing. The focus is on the costs of the new entity and that is what it can charge. It could pass on a cost through a wholesale rate to TMWA. Would it do that? That is up to the elected officials, the same elected officials who sit on TMWA, Washoe County, Sun Valley GID, and STMGID. The same people who would have to pass costs on to their retail customers are going to be the ones who decide at the Authority level whether or not they want to pass costs on. That is the importance of having elected officials on the board, they will get run out of town on a rail if they try to do something like that.

**Chair Kirkpatrick:**

Would there be an appeal process so the rate payers can go back, or a workshop process so they can testify? It is easy to say, do not reelect them, but that could be four years down the road. In the meantime, as a taxpayer or resident who is using the water, I could not reelect someone immediately, so it does not save my family the extra money now.

Legislative intent this session seems to be more important than it has been in the past.

**Michael Pagni:**

In the context of TMWA, we have a standing advisory committee made up of citizens. Whenever we want to bring a rate forward, we bring it to the standing advisory committee first for vetting and input. Then we have a technical advisory committee, which is a rate-making committee, made up of technical experts. They also review and vet the rate. Then there is a public hearing where we have multiple hearings before the TMWA Board. There is input

throughout those procedures. There is not an appeal process after the rate changes are adopted, but there are significant procedures to ensure there is public input before they are adopted.

I do not know if that is the same procedure that this committee would employ, but those who make up the new committee may look to what they know works.

**Mike Carrigan:**

If this bill passes, I am more than likely going to be on the new advisory committee. I plan to bring Legislative intent forward as far as the ratemaking committee is concerned. I have already talked to the Attorney General, and we have invited the Consumer Advocate because there was a comment that the Consumer Advocate was not on the Board, so we have invited him to sit on the ratemaking committee. That is a standing invitation, and he has accepted. The Consumer Advocate will be sitting on TMWA's rate-making committee and hopefully on the new advisory committee.

**Michael Pagni:**

This is the procedure that exists now under current law for all municipal utilities. We would be following the same practice that has been in place throughout the State for a number of years.

Regarding Section 34 and the word "successor," there was a lot of input about the Truckee River Operating Agreement (TROA). The Truckee River is different from water sources in southern Nevada because it is governed by the Truckee River Operating Agreement, or someday will be. It is an interstate compact between the United States, Nevada, California, TMWA, and the Pyramid Lake Paiute Tribe. The TROA will govern who will take water off the river, how, when, and how much. It has been in negotiations for 15 years and is getting close to being finalized. It was critical to everyone that the agreement be preserved, protected, and allowed to continue to be implemented. There are a lot of references to TROA, including in Section 34. The reason "successor" is in there is TMWA is the successor to the Sierra Pacific Power Company which was a former mandatory party.

**Assemblyman Bobzien:**

I think that gets to the heart of the angst. Looking at my situation as the representative for old northwest and northeast Reno and the incorporated parts of the North Valleys, the majority of my constituents are on TMWA water. They are paying a rate right now, and I appreciate that in Section 32, subsection 2, the new authority is not fixing the rates. But I know, in all likelihood, a new wholesale charge is going to come down the pike because the

Authority will have to absorb these rates. We know there are different rate structures throughout the Truckee Meadows, and it bothers me that there are people who are paying less for their water than my constituents. We also know this is the issue making people sensitive. This is what we are really concerned about, that the elected officials that are on TMWA, and subsequently on the Authority, would ultimately have to be responsible for taking the heat on these water rate increases. That is what this bill is asking us to do as well. What would be different if there were just a joint powers agreement in place? I am having a hard time seeing how moving forward will not involve some wholesale charge going to the purveyors to pay for what we are looking to do with this bill.

**Michael Pagni:**

Water is not going to be free because you pass this bill. It is always going to cost money whether the Legislature adopts this agency or not. It costs money to treat and distribute water. We believe that the cost of water, in the long run, will be less with this Authority than without it. We make that statement because of economies-of-scale that are achieved. Instead of building two duplicative treatment facilities at \$20 million apiece, an existing one could be expanded for a few hundred thousand dollars. Instead of duplicating the planning efforts, one would look at how to get the resources in the most efficient way possible. From a reliability and stability standpoint, the technical people think it is important to have this agency. There is not one forum where the technical people can bring together all the pieces of the resource picture to vet issues. There are distribution, wastewater, and conservation issues. The technical people need a forum, and that is why the Committee sees the purveyors, water planners, and engineers all in support of this bill. When one talks about cost, if it costs \$100 to improve the water quality in the Truckee River to save \$1,000 in treatment costs, we probably should do that. Those are some costs that could be passed on because there is a benefit at the end, and the goal should be that those who benefit from the growth, new water rights, and services should pay.

**Assemblyman Bobzien:**

I understand the vision, and I do not dispute that at some point in the future there needs to be a more regional look at how we do this. I do not dispute that there is the possibility for efficiencies to kick in and stave off what could be larger increases to water rates. The problem for us is that we are not seeing those numbers relative to what the wholesale charges could be. I realize that there is not a crystal ball to provide us with that, but that is what we all need to look at before we make the decision to go forward. That is our obligation.

**Michael Pagni:**

It absolutely is. If your sense of scrutiny is heightened when you look at this bill, it should be. Water is critical and is probably the most vital function the government can provide in Nevada. It should speak volumes that all six local governments, who live with this day to day, are in support of this bill. It should speak volumes that all of the staff members and technical people whose heads will be on the block if this does not work, all support this bill. I understand and agree with your comments about rates, but the best I can submit is the SNWA example and how that has worked out. TMWA right now is the wholesale provider. We are going to turn that over to someone else. Section 29, subsection 6 contemplates interlocal agreements. It is highly likely that when this new Authority says it needs to provide wholesale, it does not have facilities; so it is going to turn to the current wholesale provider, and it will have an interlocal agreement to have TMWA keep doing what it is doing under the auspices of the new Authority.

**Assemblyman Bobzien:**

I appreciate the hard work that has gone into this bill thus far, but these are our constituents.

**Assemblyman Goicoechea:**

I want to talk about Section 29. It looks like if we create this new water authority, it would then technically hold any and all water rights presently held by the other four purveyors?

**Michael Pagni:**

No. This is the "line in the sand" concept again. The new agency will not hold, acquire, or take any of the water resources TMWA, the County, or anybody has today. This bill is a look forward. From an acquisition standpoint, TMWA is the only entity that acquires water rights. It would turn that responsibility over to the new Authority and say "You look for the water rights, whether they are for water quality or for growth, you are responsible for bringing those new resources in."

Section 29, subsection 8, talks about how to manage the existing pool of resources. The new Authority does not take them over, the bill talks about scheduling. That is an important word because it says "County, you were going to run your well today, but the river is running really well, so it would be cheaper to have TMWA take that water off the river and serve your customers." It looks at conjunctive use scheduling, and what the most efficient way to schedule the use of the resources is.

**Assemblyman Goicoechea:**

Let us say that we are in the South Truckee Meadows and growth is coming. There are going to be water rights dedicated at that point by a developer, but we have that entity in place now. Will they then acquire the water rights? We want to make sure when someone comes in, whether it is a developer or otherwise, and it dedicates water rights, that the rights will be maintained for that region. My concern is that the rights become spread out and diluted. In the end, will there be adequate water resources to support growth beyond 600,000 people?

**Michael Pagni:**

The intention was to have a one-stop shop, which does not exist today. The TMWA makes water rights available to Washoe County customers, but the intention was to get one place so there are not multiple entities competing against each other, one place for the whole region where a developer could come for a will-serve commitment.

**Assemblyman Goicoechea:**

And dedicate their water rights there at that same one stop?

**Michael Pagni:**

Yes.

**Assemblyman Beers:**

Forgive my cynicism, it arises when I hear an agency representative tell me that it is going to save money for the ratepayers. Will the efficiency that you mention offset the fees in Sections 36 and 60?

**Michael Pagni:**

Sections 36 and 60 are fees under statute which have existed since 1995.

**Assemblyman Beers:**

Section 60 mentions a new fee.

**Michael Pagni:**

What Section 60 refers to is a gap from the effective date of January 1, 2008. We are not going to have a Board in place at 12:01 a.m. on January 1st. So for that interim period of time, until the Board gets on its feet, the existing fee under NRS 540A.070, will continue in place until this agency has an ability to say it is going to swap and charge that fee.

That is an important point and could be a source of confusion. Sections 35 though 54 of the bill are existing law, NRS 540A was lifted and moved over to

this special act and NRS 540A applies only to Washoe County. It is one of those laws of general applicability that does not have general applicability, so the Legislative Counsel Bureau moved it here. The bulk of the bill is existing law.

**Assemblyman Beers:**

So part of this fee is going to pay for the new Board?

**Michael Pagni:**

That fee today supports the Regional Water Planning Commission. The Regional Water Planning Commission is being moved under this new Board, and its revenue source is coming with it.

**Assemblyman Beers:**

How long would the rate payers expect this efficiency to positively affect their rates?

**Michael Pagni:**

I could not make that prediction. What I can tell you is the technical people are telling me that, without a forum, the concern should not be rates but rather supply and reliability. The TROA has some interesting requirements about what can be put into the River, and we could hit a wall on water quality that could affect existing customers and their ability to flush their toilets. The bigger fear is if there continues to be individual purveyors looking out just for their isolated interests, in which they do a great job, the steps they take today may be impossible or extraordinarily expensive to unravel when we hit that wall.

The future cannot be avoided by not planning for it.

**Assemblyman Beers:**

What I hear about is the checks people write. They are concerned about the month to month. As costs continue to rise, they become more concerned.

**Michael Pagni:**

Those points are all taken. Water is not going to be free because we passed the bill. There will be costs either way. Most believe costs will be easier to manage with this agency.

**Assemblyman Claborn:**

In 1977, Las Vegas built a wastewater treatment plant. The cost was to be \$55 million, and the bond was issued. To this day, we are still paying for that \$55 million. It was 30 years ago. My assessment was \$79 for 15 years, and now it is \$187 on every one of my rentals and lots that I build on. If there is

not the money to build, beware of the costs. I have probably paid \$100,000 for something that should not have cost me anything.

**Assemblywoman Pierce:**

How has the system you have now failed?

**Michael Pagni:**

I think TMWA is doing a great job as are the other entities. The problem is not that the job we are doing is bad, it is that the job we are doing is limited to the confines of our individual jurisdictions. No one is looking out for the region as a whole. What may be good for the individual system is not necessarily good for the region in a greater sense. The goal of the bill is to make those who have no current incentive to look regionally, do so and to look long term. The bill will help purveyors look at how to ensure reliability and use what they have more efficiently.

**Lori Williams, General Manager, Truckee Meadows Water Authority:**

We need to focus on the resource and the management of the resource. We do a good job focusing on our piece, and the water authority's piece is a supply piece. In the regional sense, and southern Nevada is a good example of this, one cannot separate the water supply issues from the water quality and environmental issues. They are all integrated. The benefit of a regional entity is to look at the total water management picture: the use of effluent, rights for water supply, use and needs of the environment, and integrate those into a bigger picture for the region with a federated Board that are the people who will be looking at the long term needs.

**Mike Carrigan:**

When the subcommittee asked the four purveyors if we thought the system was broken, we all said no. That is where we started, but looking a little more regionally, we decided this was probably the better way to go. I wanted to reiterate, when we bought this water company, the cities of Reno and Sparks and Washoe County signed a joint power agreement that said they would look at consolidating all of the water purveyors in the Truckee Meadows. This is the first step in doing that. The next thing we will look at is if we need four water purveyors in the Truckee Meadows. The answer may not be yes.

**Chair Kirkpatrick:**

Regarding Section 35, will this say that only TMWA grows, or does it say that the Sun Valley GID can grow? Because TMWA is Reno, Sparks, and Washoe County, does this bill give the ability for everyone to grow?

**Mike Carrigan:**

The entity that can best serve new development will serve new development. We have run into some problems with a new development in Verdi, trying to figure out if TMWA or Washoe County could serve it better. The entity will say, it is Washoe County, go do it. That is what Senator Amodei was alluding to when he said "Do not run two pipes to the same place."

**Lori Williams:**

What we have right now are some rigid lines drawn around area boundaries. As water managers, we can do a better job if we look toward the resource and its management in place of rigidly drawn lines. The bill provides that the facilities built by existing agencies are used to the maximum benefit of the region. We already have capacity. The County has capacity in its plans and we want to make sure the customers who need to hook-up to those plants are the right customers. If one wants to bring Truckee River rights, but the best resource for the region is a creek right, we need to make sure the creek rights are brought in for that service and are hooked-up to the plant that treats creek rights. Those are some of the issues smudging the lines of having this umbrella agency look at water in a more regional way, focusing on the resource and benefits to the region, maximizing use, and efficiently using the in-place facilities and facilities that will be planned in the future.

**Chair Kirkpatrick:**

The entire part of Section 31, subsection 1 down to subsection 4(d), considers "the rate of growth within the service territories projected over a reasonable period." How do you do that?

**Michael Pagni:**

Section 31 talks about this new entity establishing service territories for new customers who come in after January 1, 2008. The language in subsections 1, 2, and 3 was taken from the existing service territory agreement between Washoe County and TMWA: some of the factors they look at when adjusting the service boundaries. Those are the historical criteria and the reason they have been reiterated. Subsection 4 was an amendment suggested by Sun Valley GID for some other factors that should be considered when one is looking at the lines. Let us look at the topography, the land use policies, and the planning the water purveyor may have already done to serve that customer. The Board, which is comprised of Washoe County, TMWA, and Sun Valley GID, is dealing with service territory issues. It will look at those issues.

**Chair Kirkpatrick:**

Section 36, states "To fund the planning and administration required by this Act and the implementation of the Comprehensive Plan", and somewhere it says

there has to be a master water plan by 2011. Do you not already have the resources to make a plan? You have the Northern Nevada Planning Commission, why would you not put water under there first to get the plan and then come back? I feel like Section 35 should be Section 1. Do that first. One of my constituents was involved in the creation of the SNWA, and those are some of the issues we discussed.

**Michael Pagni:**

Your intuition is exactly right. We are not doing this backwards. We are doing exactly as you think it should be done. Sections 35 through 54 are existing law. This is Chapter 540A under existing statute that creates the Regional Water Planning Commission. It states how it will conduct its planning activities and the plan it adopts. Section 36 is existing law and is exactly how it is going to work. This planning is going to occur at the technical level at the Regional Water Planning Commission. The plan, instead of going to the County Commission as it currently does, will be brought up to this new regional entity for approval and implantation. The planning in Section 36 is going to occur first.

The service territories will be run by the technical staff first, as well. The technical level of review is first, and that is something the SNWA has right now. This would prevent the creation of a new duplicative technical board. The S.C.R. 26 of the 73rd Session committee noted that there already was one, the Regional Water Planning Commission.

**Lori Williams:**

The Regional Water Planning Commission is currently working on a regional water management plan update. We want to make sure that plan does not "fall through the cracks," but gets finished. It is an important piece of work. That plan will carry over to the new agency, if it is formed, and then the new agency would pick up from there. There is language that tries to transition the existing Regional Water Management Plan while we transition.

**Chair Kirkpatrick:**

Section 42, lines 24-29, says exactly that, but why not have TMWA do it and have the others come to it. Who is the technical person for TMWA? If TMWA is the only one that is growing, which is what I get from this bill, why does that plan need be finished by January 1, 2008? I thought the Regional Water Planning Commission did all of the planning for northern Nevada.

**Michael Pagni:**

That is correct. The plan Lori Williams refers to is not TMWA's plan, it is the Regional Water Planning Commission's plan.

**Chair Kirkpatrick:**

Why would we not already have everyone's plan in place?

**Michael Pagni:**

Section 42 refers to what is going on right now. Washoe County and TMWA prepare their plan, then submit it to the Regional Water Planning Commission who looks at the plan and adopts it for the County. There has been a lot of effort to update the existing plan. We do not want to erase those efforts, so Section 42 says the plan adopted by the Regional Water Planning Commission will remain in place until the new entity gets on board and has had the opportunity to review all of these things. The new entity then has until 2011 to update the existing plan that is being prepared by the Regional Water Planning Commission today. That is the reason for the date gaps.

**Chair Kirkpatrick:**

If there are three pieces of paper, and we combine them to make a Master Plan, why do we need five years to combine them? Line 25 starts "The initial Comprehensive Plan must be developed on or before January 1, 2011." The initial means the first. "The provisions of the comprehensive plan developed and revised pursuant to the former provisions of NRS 540A.130 before January 1, 2008, remain in effect until the Board adopts the initial Comprehensive Plan." If everyone is already working on the plan, why do you need five years to adopt it?

**Michael Pagni:**

When the bill was first drafted, we did not have this date gap. We had that the initial plan would be adopted on January 1, 2008. Then people realized that it takes a lot of time and effort with input, analysis, and study that goes into vetting a comprehensive plan. We also recognized that if this entity is formed it will change the planning landscape because we are now going to look regionally. The service territories may shift a bit, the resource picture might shift. To say that you, the new agency, will, on the first hour of your inception, adopt a comprehensive plan that is going to guide our planning for the next five years, was unrealistic. We said that we have a regional planning commission that has been doing this since 1995. It, with the help of the purveyors, have been updating the plan. That will be the base to start. There is nothing that prohibits the new entity from adopting a plan in January 2008. The January 2011 date is the outside date to adopt a plan.

**Lori Williams:**

The TMWA is a water supply agency, so we are really only planning for water supply. The piece we give to the Regional Water Planning Commission is focused on water supply issues. Other people are giving pieces that are

focused on sewer, disposal, storm water run-off, storm water management, and so forth; there are other pieces and other purveyors contributing to the plan. The timing in the bill is about the same as the cycle. We are going through an update of our resource plan right now, we will give that to the Regional Water Planning Commission, they will then make an update of their plan. We believe that plan would be updated around the time the new entity would be formed. The new entity would then be cycling through the next update.

**Chair Kirkpatrick:**

Section 43, subsection 7, states "Cost and financing, which must include an estimate of the cost of each major facility..." It then goes back to the different rates in Northern Nevada, and we go back to all entities already having their budgets planned for the next biennium. I could see that 2011 would give you more time to come back together. It would also be wasting resources to recreate the wheel.

**Michael Pagni:**

Section 43 is currently codified under the statutes as NRS 540A.140 and subsection 7 is in that existing law.

**Lori Williams:**

What happens in the Regional Water Planning Commission process is that after all of the planning is done and all of the agencies have individually put up what their plans are, all of those are laid on the table. This Section requires the plan to look at the total costs of all of those facilities in a general way. The costs are aggregated and then divided by the number of customers that could be served. One of the goals would be to minimize those costs by collaborative efforts.

**Chair Kirkpatrick:**

How are they planning their budgets if things are going to change?

**Lori Williams:**

The Regional Water Planning Commission has one regional water planning staff member that works at Washoe County and has an administrative assistant. Beyond that, all of the staff efforts are provided by the agencies. For example, my water resource director and his staff contribute to the process. None of them are paid or reimbursed for those services in the planning process. The funds from the plan can be used to hire consultants to help with a more regional planning process. We hired a consultant to develop the South Truckee Meadows facility plan. The consultant would talk to all of the agencies and build that plan.

One of the weaknesses with the Regional Water Planning Commission is it does not have what I will call "enforcement." That is probably not the right word. They do not have any "teeth" to require entities to follow the plan or build the facilities that are not in the plan. There is a process to go back and find facilities in conformance with the plan, but those are the facilities that the utilities said they would build. There is not a true link-up within the more regional picture to fulfill the overall need.

**Chair Kirkpatrick:**

Section 37 created the Water Planning Commission. Why do we need to create an authority made up of a bunch of politicians, elected and unelected, to work together? Why can the existing agencies not work together?

How is the expiration of the Northern Nevada Water Planning Commission in July of this year going to affect the settlement agreement and the work done at this time?

**Lori Williams:**

I am not clear what the expiration in July is.

**Chair Kirkpatrick:**

Court documents say the settlement agreement, which is part of the growth in the north, expires July 1, 2007. If that were to expire, and we could not come to a regional plan, how could we possibly, under the Northern Nevada Water Planning Commission, which is in statute, come to a regional plan?

**Michael Pagni:**

The settlement that you are referring to is by the Regional Planning Governing Board, which is not the same as the Regional Water Planning Commission.

**Chair Kirkpatrick:**

Is it a regional planning agency in northern Nevada?

**Michael Pagni:**

It is a regional plan.

**Chair Kirkpatrick:**

If you all cannot get along on a settlement agreement, how are you going to get along on a northern Nevada Water Planning Agreement, which is much more contentious?

If the settlement expires with no plan, and I understand from the local officials the talks have stopped. How, by implementing this authority where they are all

supposed to come together, does this help the Northern Nevada Water Planning Commission do its job? Staff members can get along, but political figures are supposed to fight for their districts.

**Michael Pagni:**

That is why this bill is so remarkable. All six local governments have stood before you in agreement, and that is a rare occurrence. The hope is, at the staff levels, that we can take politics out of water and focus on the resource and what is best for the resource. They want to leave the fights over growth to land use planning, where they belong.

It should not be that water prevents or spearheads growth. It should be that the water is planned for, and the land use policies are planned around the water.

**Assemblywoman Pierce:**

I am from southern Nevada, and one of the persistent frustrations there is that there is a water authority that maintains it is not its job to have any kind of opinion on growth. It is its job to get water. Your vision of the water authority is to plan.

**Assemblyman Goicoechea:**

Do you know if that was really the case?

**Michael Pagni:**

I do not know if that was the case. There is a sales tax component that funds the SNWA, and maybe that was presented to the voters.

**Chair Kirkpatrick:**

We could get that information. I remember it was Question 10, around ten years ago, regarding a 25 cent sales tax increase. I do not know if there was a vote to create the SNWA.

**Assemblyman Claborn:**

All of these people are here and organized. Now, since they have such a great organization, they should put it to the people. That is who is going to pay for it.

**Chair Kirkpatrick:**

It was easier to go through sections of the bill and ask questions. We are going to move to others who would like to speak in favor of S.B. 487 (R2).

**Michael Pennington, Public Policy Director, Reno-Sparks Chamber of Commerce:**

On behalf of the Board of Directors for the Chamber, we would like to be on the record as strongly supporting S.B. 487 (R2). We began our work on this issue

before the last legislative session, and we have worked diligently with the stakeholders and the community, and held many meetings. I attended three to four meetings a month from late last fall to early last summer, establishing a regional collaborative plan for acquisition, management, and conservation. Planning is in the best interest of the Truckee Meadows. The key word is regional. The Chamber is always looking for ways to bring the cities, County, and other entities together to look at the global perspective.

**Jack Robb, Builders Association of Northern Nevada:**

I have been a member of the Builders Association for the past year. I have not been asked to speak today for the Builders Association because of my long tenure with them, but because of my prior work experience with Sierra Pacific Power Company and TMWA. From 1997 to 2001, I was in charge of buying water rights for Sierra Pacific Power Company and purchased water rights for TMWA in 2005 and 2006.

The Builders Association is in favor of S.B. 487 (R2) and believes a regional approach is the best way to go after water in northern Nevada. We want to get rid of the political lines that sometimes hinder how development occurs and keep the costs down.

**Chair Kirkpatrick:**

We will now call those who are neutral on S.B. 487 (R2).

**Rosanna Coombes, Interim Director, Truckee Meadows Regional Planning Agency:**

I am testifying on behalf of the Regional Planning Governing Board. Our Board adopts a comprehensive regional plan for land use, infrastructure, and natural resource planning. That document is a broad policy document, and we have to focus on coordinating a range of other planning activities that occur in our region, one of which includes planning for water. We are here on a specific piece of the legislation, which relates to our standard of review when we consider other planning activities in the region. It is called conformance and relates to Sections 44, 49, and 50. I will refer to the handout ([Exhibit M](#)), which has the work session documents when we testified to the Senate Committee on Natural Resources. We had offered a specific, and maybe too simple, proposed recommendation for an amendment, relating to Section 44, which is the second page of the handout.

The way Section 44 and 49 are currently crafted, there is a different use of language as it relates to the relationship between the regional and water plans. Section 44, as proposed, said the Comprehensive Plan, which is the water plan in this context, must be consistent with our land use plan. The statute,

regardless of the bill, further on refers to a conformance criteria. Those distinctions and words are very important. The difference is as if I said "Come and work for me and I will pay you" versus "Come and work for me and I will reward you." They sound similar but have very different meanings.

When we testified to the Committee on Natural Resources, the committee actually accepted this recommendation as provided, but somehow in the drafting process, we wound up with the amendment language that does the opposite of what the intention of the amendment was.

I will refer you to the second handout ([Exhibit N](#)). Under Section 44, the word "consistent" remains, and in Sections 49 and 50, the reversal of the language has occurred: instead of an emphasis on conformance requirements, it has been loosened to a consistency requirement. What that does in practice is to push the two plans apart rather than together. Conformance review, in the way we interpret it, means that one plan must adhere to the requirements of another. Consistency means they sit side-by-side, and as long as they are not in conflict, it is okay. The problem we have in the Washoe County version of regional planning is that our land use plan has a domino effect with a number of other plans in the region. Local government master planning, Airport Authority planning, school districting, and everyone else must be found in conformance or adhere to the regulations in the County plan.

The water plan, by practice, has fallen within that requirement, but there has always been this type of conflict within their section of statute. While this section is being opened, we thought we would come in and tighten it up to bring the two plans closer together, but somehow in the drafting process this intent went astray. What we are specifically asking for is an amendment that converts the language back to what we testified to before the Senate Committee on Natural Resources.

**Assemblywoman Parnell:**

If we have a new authority, and we already have the planning that is taking place at the Regional Planning Board, and then I see reference to the Water Quality Settlement Agreement, what happens when there is a conflict between the three? It seems like this would increase the likelihood of conflict, so what would take precedence?

**Rosanna Coombes:**

Those are exactly the concerns we have had, and why we came to the Legislature to tighten the language. In practice, the Truckee Meadows Regional Plan, the land use, infrastructure, and natural resource plan, has been the blueprint. If there were a conflict with other planning, the Regional Plan would

"preside" over another decision. The language in the bill right now causes more conflict because there is a question of which takes precedence. All the other plans have to come into conformance with our regional plan, and if the water plan is in conflict with it, there is a massive domino effect that not only affects the regional plan, but every other plan in the region.

That is not always a bad thing because water is absolutely critical in the decision making. As an example, we went through a five-year update of our plan. Twenty-five percent of the people sitting on the technical review committee for the adoption of the plan specifically dealt with different aspects of water. We have a strong relationship with the water planners, and our aim was to tighten the language further and have no question about which plan would prevail, but it went in the opposite direction, unfortunately.

**Assemblywoman Parnell:**

Is it your intention and belief that the regional plan is the plan that would always, ultimately, be followed? Is this the same understanding as the individuals who have been involved with this bill have? It is important to know what the expectations are of all the groups who are involved.

I do not know that all involved in this discussion would agree that the Regional Plan would be the overriding plan.

**Rosanna Coombes:**

I cannot speak of what I believe they think. I can speak of what past practice has been. The water management plan has been submitted for conformance review, which is a subordinate role to the jurisdiction of the Regional Plan. I am not aware of anyone stating that this should change. There was no testimony before the Senate Committee on Natural Resources to the contrary of what we were proposing. It was possibly a misunderstanding in the drafting process.

**Assemblywoman Parnell:**

I am sensitive to this because I have an annexation bill that is going to be heard this afternoon. The Regional Plan requires a lot of public input, so there are plans in place for that public input. I do not know if that is clearly laid out in this bill. It needs to be clear that any decisions made with regard to water, has to have the public input process and the public help to determine what they want that regional plan to look like.

**Chair Kirkpatrick:**

I do not want all of the purveyors to leave before the residents have had their say. I will start with the opposition.

**Steve Bradhurst, Private Citizen, Washoe County:**

I have been involved in water issues in Washoe County for about 25 years. During the last week, Ms. Gilbert and I have visited with many members of this Committee, and I have left my analysis of this bill.

One of the primary reasons for this bill is for the purveyors to coordinate. In my experience, as the former director of the Washoe County Department of Water Resources and as a former County Commissioner, I will state that the utilities do get along. The proof is in how the customers feel about that. We tend to forget about the people out there paying the bill. There are approximately 120,000 billable accounts with the four utilities put together. If the utilities are not getting along, one would expect that the customers would be the first to say something. The customers are pretty happy with the service they are receiving. In Washoe County, we conduct a survey every two years.

I have handed out the document called "Community-wide Water Issues, 2004" ([Exhibit O](#)). An example of how they get along is included in this document which was from a presentation about water issues in Washoe County. These six issues are the front-burner, tough issues. The first is the implementation of the Truckee River Operating Agreement; second is the update and implementation of the Washoe County Water Management Plan of which Jan Gilbert has a copy. The third is the implementation of the Truckee River Flood Management Community Coalition Plan; fourth the implementation of the Central Truckee Meadows Remediation District; fifth the Truckee River Water Quality Settlement Agreement; and sixth the Truckee Meadows Regional Storm Water Quality Management Program. On the bottom I wrote, "The common thread to these 'community-wide water issues' is: one, the significant involvement of Washoe County, the City of Reno, the City of Sparks, other government entities, the private sector and the public; and two, the issues are being addressed successfully by the region."

These are difficult issues, and if people did not get along with the jurisdictions and the utilities, we would not be successful with these issues that are critical to the quality of life. I am put off when there are claims that we do not get along.

Section 30 states ". . . on and after January 1, 2008, any rights to water supplies required for use by any public purveyor may only be acquired by the Board." That is a bit of a problem because in the water business when someone comes in with a subdivision map, he has to dedicate water for the subdivision. The bill says that come January 1st, if the Sun Valley GID needs water for a 100 unit subdivision, the water they would normally get through water rights is going to go somewhere else. It is going to go to the Board, and

the Board is going to hold it. The State Engineer might have a problem with that provision because he would want the water matched to the land use and to know that some other party is not using it. The party that is going to provide the water has to have beneficial use of that water.

As far as revenue goes, if you look at Section 29, item 10, on page 10, it talks about how this new entity can collect money. It goes on to say ". . . collect revenue from the use of water supplies of the Authority." If the new Authority has the water rights which are supposed to be associated with a utility serving water, that means the new entity can charge for it. You need this water for your development utility and we would hold it because of this law. We are going to generate a little extra revenue.

What would normally happen is the person who is developing property would dedicate the water right to the utility, and that is it. The utility says "thank you very much" and "we are going to provide water service." There is no fee attached to that water right.

In talking about the cost of the proposed Northern Nevada Water Authority, looking at Section 29 and all 24 provisions, there is a lot in there. There are a lot of responsibilities in Section 29. This is another level of government. It is a new bureaucracy. With all of these responsibilities, it is going to cost someone some money.

If you look at Section 15, you will find that this new entity can assess the public purveyors directly for any costs. Turning to page 10, if you were a purveyor, and you were going to go after water, we in Sun Valley do not want to be a party to that. Sun Valley can opt out, but further in the bill at the bottom of item 15, it says the board can decide to bring you back in if the board decides you will benefit.

I would like to read a statement made by John Rhodes, the Deputy District Attorney. It is analysis of this bill when it was still in BDR form, and relates to Section 29, item 15. He says that Section 29, item 15 provides that the Authority may directly assess public purveyors for any cost arising from regional capitol improvements related to the delivery of water supplies. Even though a purveyor can opt out, those who choose to participate can recover only the assessments imposed through their rate schedules. The end result is the existing customers will be funding the cost of new water for new development and new customers.

When you hear the statement that we would like to have an amendment that there be no general tax, what about an amendment that there will be no tax or

no increase to the rate payers. There is a contradiction in what you see here. This is going after the rate payers, and they are going to have to fund this versus a general tax to all tax payers in Washoe County.

In Section 36, on page 13, is the fee. In addition to charging rate payers money, this fee is the only other source of money, which is the 1.5 percent fee that is now collected by Washoe County for water resource planning. That fee generates \$1,200,000 per year and has been for the past 7 years. The Regional Water Planning Commission's (RWPC) activities have cost \$1.2 million. Something has to give here. If that is the primary source of money for this new entity, and it is being used for regional water planning, then either this new entity is going to start to dip into that money to keep itself alive; or they are going to have to get money from someplace else. I do not know where that would be other than through the fee structure.

**Chair Kirkpatrick:**

I question Section 36. That will be one of my questions for Senator Amodei. How would you acquire the facilities?

**Steve Bradhurst:**

There is going to have to be a rate. It is going to have to be bonding if they are going to build new facilities and bring water in. Through this bill, almost every section says "acquire." That tells me someone is going to acquire water. Acquiring water means you are going to have to go out and get water from someplace, and that means if I were a Pershing County Commissioner, I would be very concerned because I think the bulls eye would be on my county.

There were statements made about dueling water lines in streets. That does not exist.

There was an agreement made between Sierra Pacific and the County in 1996. Now Sierra Pacific is TMWA. That agreement has been in place and has worked very well over the last 11 years. There have been adjustments to the service areas. The process which is normally followed is the technical people sit down and say "can you serve these people better than we can?" They make a decision; they recommend it to the Board of County Commissioners, and the TMWA board.

The five years I directed the Department of Water Resources we had approximately 45 amendments to the service area. We had notice agreements between the utilities. I am having a problem because that agreement worked well, and I do not see dueling water lines going down the street.

**Chair Kirkpatrick:**

Does anyone else have a question? [There were none.]

How were the service areas determined in what you did?

**Steve Bradhurst:**

Prior to 1995 Sierra Pacific Power Company was regulated by the Public Utility Commission. The County got into the water business in 1980 because small water companies were developed within subdivisions and the water companies did not operate, so the Public Utility Commission asked the County to step in and take over these small water companies. Gradually the County agreed to help out and take them over.

Sierra Pacific Power Company and the County were bumping into each other where the service areas came together. In 1995, an agreement was made between the power company and the County that we would look at where our facilities were and draw a line. In the north they wanted to go up to La Posada Drive and to the south, they wanted to go to Zolezzi Lane. We wanted to make sure that line is not sacred. Let us make sure we can adjust it over time because we do not know if it should be adjusted. We need to have some sort of criteria. We put the criteria together, and that system has worked quite well. The initial effort was to develop the service areas and draw the service areas based on the facilities that existed for those utilities at that time.

**Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada:**

Senate Concurrent Resolution No. 26 of the 73rd Session directed the committee to look at the feasibility of this water issue. I considered the fiscal impact feasibility, and I do not feel this bill addresses the fiscal impacts of a water authority. It does not add any money to run the Authority or to acquire water. It does say "effect on local government may have fiscal impact." I believe it will have a fiscal impact. It may not happen immediately but it will happen.

The Pyramid Lake Paiute Tribe is part of the Northern Nevada Water Planning Commission (NNWPC) and they are not in this bill. For some reason they were left out.

There are many people who are not here who care about this issue. Unfortunately, they are just citizens. I am one of the few paid lobbyists on this issue and that is very telling. The citizens are somehow left out of this because this issue is so complex.

Over and over we have heard "planning, conservation, water management." It is like they do not know this exists. This plan already exists. The Legislature recommended the Washoe County Water Management Plan be done, but somehow the local entities do not want to pay any attention to it. They do not seem to want to live within their means, which means our population in Washoe County would grow 50 percent. That is a pretty strong growth. We could grow 50 percent with existing water sources. I would advise them to use this plan. It is possible, with conservation, to have more water available for development.

We have been portrayed as the "no growth group" and that is not true. We are concerned about the statement that growth pays for itself. The schools and the roads do not show that. When a large development goes in with middle income housing, there are children who need a school, and the Senate declined to give the voters the opportunity to even build schools.

The sponsor of this bill, when on the Senate Floor, said something to the effect that the opponents were talking about importation of water and that this is not about importation of water. Washoe County does have a finite resource of water, and this bill is about importation of water. We are trying to live within our means. We are not like Southern Nevada Water Authority that was gifted a Colorado River allocation. The Truckee River does not have that allocation. It is all granted. This is about importation because we would have to go somewhere else to get more water. I urge you to oppose this bill.

**Dennis Ghiglieri, Representative, Great Basin Water Network:**

I have a letter which is signed by 167 individuals who are very concerned about S.B. 487 (R2) and ask that you oppose the legislation at this time ([Exhibit P](#)). There is a statement included regarding eminent domain, which we may have been confused about. I understand eminent domain is still part of the bill but it does not include water rights. I will make that correction now for the record.

Senate Bill 487 (R2), the outgrowth of the S.C.R. No. 26 of the 73rd Session subcommittee attempts to fix water programs that are not broken, acquire water to promote un-sustainable growth, pass the cost to rate payers, and the benefits to the growth interests.

The legislation directed the S.C.R. No. 26 of the 73rd Session subcommittee to complete a fiscal feasibility study. It was not done. Costs are still unknown. Fees currently collected by TMWA and other agencies cover water planning, studies, and other projects; fees do not cover staffing. The proposed agency will add an expensive layer of staff.

Senate Bill 487 (R2) will be costly to implement because it implies importation since there is not enough water in Washoe County to support the 1.2 million people as a new regional plan calls for.

As a former Washoe County Regional Water Planning Commissioner, I know the entities work together. The plan that Ms. Gilbert brought clearly shows that. They have coordinated in the past when the Planning Commission was first created, and they continue to do so.

There is no competition to deliver dueling water mains in Washoe County. It was unfair to use that as a characterization. Everything we see going on in Washoe County today would indicate far more cooperation than we have ever seen in the past. It is not a matter of entities fighting tooth and nail over delivery of water resources.

The regional plan addresses issues of surface, groundwater, conjunctive use, and all other kinds of water use within the Truckee Meadows right now. We have talked about it for years, and we have done things about it. We have paid for studies that have indicated how to go about implementing groundwater reuse and how to talk about groundwater recharge.

The current Regional Water Planning Commission is a bargain agency. For a small fee we get coordination, planning, and a successful plan which is being implemented. It has a broad regional view.

I ask the Committee to consider that this is not a matter of public necessity. We are doing the job today. The proposed water authority would be duplication, in my opinion, of excellent water resource management programs. It does not discuss the serious fiscal impacts. If the Committee feels that something needs to come out of the S.C.R. No. 26 of the 73rd Session subcommittee, I would ask that Washoe County voters in the 2008 General Election have an opportunity to speak on this issue and the Legislature would have the power to put it on the ballot.

**Tina Nappe, Private Citizen, Washoe County:**  
[Read from prepared statement ([Exhibit Q](#)).]

**Charles Ragusa, Chairman, Voices for Truckee Meadows:**

This bill has disastrous implications for northern Nevada. This bill's true sin is one of omission, with no fiscal plan, and no official oversight protection offered for a so-called water authority. It also has no ability to enforce accountability. The thought of allowing our most important natural resource to be placed in the hands of a few elected people is absolutely frightening.

Another difficult aspect of this bill is the unanswered question of who will ultimately be required to be responsible for the cost of any water importation plan. This bill is an inadequate, unfortunate attempt to consolidate a number of water management groups. On the surface it is an attractive idea, but without the proper structure as well as any critical guidelines, S.B. 487 (R2) is a disturbing violation of the public's trust by their elected officials.

With so many questions surrounding this bill, it would be unacceptable for this bill to be passed into law.

[Chair Kirkpatrick left the room and Vice Chair Pierce took over the meeting at 12:25 p.m.]

**Vice Chair Pierce:**

Are there any questions? [There were none.]

**Ira Hansen, Private Citizen, Washoe County:**

What was interesting this morning is hearing everyone talking about leadership for this Committee, and how it is so important that you exercise leadership. If I understood it correctly, they are defining leadership as meaning avoiding, at all costs, listening to the public. There is overwhelming public opposition to this bill.

The whole idea properly belongs at the Washoe County level. We had both of the mayors and the Washoe County Commission Chair here, and they are who should be handling this issue. What they have done is pass the buck to the Legislature because this is an unpopular thing in northern Nevada. The correct thing to do is to leave it where it belongs. It is a regional issue.

If you go back and study the roots of this bill, in 2004 Washoe County put out for public auction some water rights they had. The true market value of what those water rights were worth was suddenly out there. The developers were used to getting subsidized water, and now the subsidized water is pretty much gone. They had 205,000 acre-feet of water that had been subsidized at a very low cost, \$3,000 to \$4,000 per acre-foot. When put out to the private sector the true value was approaching \$50,000. That has dropped considerably because as the price went up, people who had private water rights started to sell them on the market.

In Washoe County there are 77,000 private acre-feet of water held now. This bill is about acquiring those through eminent domain or any other method possible. It is all about the acquisition of water.

TMWA mentioned eliminating or at least seeing the feasibility of eliminating some of the other water purveyors down the road. What will that do? That will force the costs up. Right now everyone in Washoe County does not have the same water rates. Some of the GIDs have significantly lower costs than Truckee Meadows water. It could be a little embarrassing when you look at your water bill and someone in Sun Valley has a significantly different rate. By eliminating that competition TMWA can increase its prices. There is no way that when this bill is passed, you are going to see any cost reduction to anybody.

Another argument was a lack of conservation in Washoe County. Washoe County has an excellent conservation plan. I am a plumbing contractor and have been very involved in this for a long time. I make my living through growth so I do not want anyone thinking I am against growth.

What we have seen since the 1980s is a 15 percent reduction in the average amount of water used per household in Washoe County through conservation efforts. That is significant. The conservation issue is not an issue.

There is a \$100 million acquisition on Honey Lake, which is going on an importation plan into the Reno area. That is being paid for through the private sector. That is where it belongs. If this bill passes, those costs can legitimately be passed on to all of the consumers. The consumers that exist now will be subsidizing future growth.

I am in favor of growth paying for growth; however, Section 31, subsection 2 says ". . . ensure that existing or future customers are not affected inequitably." That means you cannot charge the new person more than you are going to charge the old person. All of those costs of acquisition are going to be spread out to the existing customers. In other words, growth will not pay for growth in this bill.

The number one reason this bill needs to be passed is the cost of water rights going up and the ability to pass those savings in those water rights on for future growth and development. The citizens of Washoe County do not want to see the Washoe County government get involved in something that properly belongs in the hands of the private sector.

If you are in favor of the bill, I would like to request that you leave this issue of water importation and water in general up to the private sector. It is not a government issue, especially at the State level. If not, there should be a provision in this bill to put this issue to a public vote. Let us see if the people of Washoe County and northern Nevada really want to have this new, very

powerful bureaucracy that will ultimately affect their tax rates and their water bills. I would urge you to kill this bill.

**Vice Chair Pierce:**

Are there any questions?

**Assemblywoman Parnell:**

Could you tell us what part of the bill regards spreading rates out?

**Ira Hansen:**

It is Section 31, line 2.

**Assemblyman Claborn:**

We did not bring it up because we do not have to. We all read that.

**Ira Hansen:**

I wanted you to be aware of it. To me it is disingenuous of the water purveyors to indicate they believe growth should pay for growth when it is clearly in the bill they are proposing before this Committee.

[Chair Kirkpatrick returned at 12:33 p.m.]

**Chair Kirkpatrick:**

Are there any other questions? [There were none.]

**Leo Horishny, Private Citizen, Washoe County:**

[Read from prepared statement ([Exhibit R](#)).]

**Pat Phillips, Private Citizen, Washoe County:**

I am going to go back to the report that was issued as a result of S.C.R. No. 26 of the 73rd Session. The entities that were involved and participated in much of the testimony were water purveyors, elected officials, and developers. I am speaking today on an emotional level. I live in Washoe County and have a domestic well. I will be directly affected by this bill.

I believe in growth, but I believe in smart growth. I believe that people live in northern Nevada because of the quality of life they have here. That is why I live in Washoe County and have a well.

Hugh Ricci, who was the State Engineer at that time, had a memo in which he voiced concern about the unique rights for Nevada domestic well owners. Many of them were complying with state law, but there were no formal water rights. These people should be protected.

When this bill first came out, domestic well owners were not included. They were ignored. There are over 8,000 of us in Washoe County. We are part of the quality of life. One of the special things about Washoe County is that we have urban areas where people can go downtown to the businesses. It attracts people. We also have the rural areas, the greenness, the horse country, the sheep, and everything else. That is why people move here. That is why businesses come here. That is a part of our future smart growth.

I do not see this bill protecting us at all. The goal of this legislation was to provide for the growth, but also to conserve. What it looks like to the private citizen is that this is redistribution.

As private citizens, we are asking you not to pass this bill out of this Committee. Give the elected officials and private citizens a voice and a chance to make this right.

**Richard Daly, Business Manager, Laborers Union Local 169:**

I am not against growth, and I support conservation, but when I read this I looked at it from the point of prevailing wage and various other things.

In this bill, you are creating a new public entity, a public agency with the power to issue bonds and the power of eminent domain. Only elected officials are on the boards and commissions, they employ public employees, they can assess fees, do capital improvements, and to some extent they are subject to the open meeting law.

If they have the powers of government, it needs to be clearly stated in the bill that they also have the responsibilities, oversights, and limitations of government.

You can take care of that in Section 28, page 9. You could add a section that says the authority is a public body within the meaning of NRS 338.010 and subject to the provision in NRS 338.

In Section 26, they should not just have to record their meetings the same as in the open meeting law, but they should have to comply with the open meeting law.

**Assemblyman Claborn:**

I was on the S.C.R. No. 26 of the 73rd Session committee. What you are referring to is the testimony of the subcommittee, not the main committee. When we had S.C.R. No. 26 of the 73rd Session in the committee we had meetings all over northern and Southern Nevada. We did not get some of that report until recently.

**Pat Phillips:**

Many of the private citizens were not aware of the issue. In some way, the introduction of this bill has opened the eyes of many of the private citizens and they are now aware. The greatest concern at this point for most domestic well owners is the eminent domain aspect.

**Assemblyman Claborn:**

I think this issue should go to the vote of the people.

**Chair Kirkpatrick:**

Is there anyone else who would like to testify in opposition to this bill?

**Toni Harsh, Private Citizen, Washoe County:**

I was on the Reno City Council from 2000 until 2004, and I also served on the Regional Governing Board from 2002 until 2004. We live in a constrained environment. The Regional Water Commission was constrained as well. Even though they had a wonderful plan that works so well together with all of the input from different water purveyors, they lacked the teeth to implement that plan. This was a major issue for the governing board when we would look to them for expertise. The people on the Regional Water Commission have that water expertise.

When TMWA was formed, I was on the Reno City Council and I voted for it. We set up a board that would have water people on it and one public official to watch out for the public interest. We are still waiting for that board to transition into a board with water people on it with one public official.

They are worried about duplicity and this is a duplicitous establishment of another board when we already have the board they are asking for with the Regional Water Commission.

**Chair Kirkpatrick:**

Are there any questions? [There were none.]

Is there any public comment? [There was none.]

I will close the hearing on S.B. 487 (R2).

[Meeting adjourned at 12:51 p.m.]

RESPECTFULLY SUBMITTED:

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Mary Kay Doherty  
Committee Secretary

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Emilie Reafs  
Transcribing Secretary

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Rachelle Myrick  
Transcribing Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: \_\_\_\_\_

## EXHIBITS

**Committee Name:** Committee on Government Affairs

**Date:** May 9, 2007

**Time of Meeting:** 8:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 274 (R1)	C	Tracy Taylor, State Department of Conservation and Natural Resources	Prepared Statement
S.B. 274 (R1)	D	Tracy Taylor, State Department of Conservation and Natural Resources	Proposed Amendments
S.B. 274 (R1)	E	Jason King, State Department of Conservation and Natural Resources	Prepared Statement
S.B. 274 (R1)	F	Jason King, State Department of Conservation and Natural Resources	Flowchart
S.B. 274 (R1)	G	Jason King, State Department of Conservation and Natural Resources	Draft Regulations
S.B. 487 (R2)	H	Senator Mark E. Amodei, Capital Senatorial District: Subcommittee Chair, Senate Concurrent Resolution No. 26 of the 73rd Session	Legislative Counsel Bureau Bulletin No. 07-12
S.B. 487 (R2)	I	Senator Mark E. Amodei, Capital Senatorial District: Subcommittee Chair, Senate Concurrent Resolution No. 26 of the 73rd Session	<i>Reno Gazette-Journal Editorial</i>
S.B. 487 (R2)	J	Bob Larkin, Commission Chairman, Board of County Commissioners, Washoe County	Prepared Statement
S.B. 487 (R2)	K	Jim Galloway, Member, Board of County Commissioners, Washoe County	Prepared Statement

S.B. 487 (R2)	L	Neena Laxalt, South Truckee Meadows General Improvement District	Proposed Amendments
S.B. 487 (R2)	M	Rosanna Coombes, Truckee Meadows Regional Planning Agency	Proposed Amendments
S.B. 487 (R2)	N	Rosanna Coombes, Truckee Meadows Regional Planning Agency	Proposed Amendments
S.B. 487 (R2)	O	Steve Bradhurst, Private Citizen, Washoe County, Nevada	Document entitled "Community-wide Water Issues, 2004"
S.B. 487 (R2)	P	Dennis Ghiglieri, Representative, Great Basin Water Network	Letter in opposition
S.B. 487 (R2)	Q	Tina Nappe, Private Citizen, Washoe County	Prepared statement
S.B. 487 (R2)	R	Leo Horishny, Private Citizen, Washoe County	Prepared Statement