

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND  
MINING**

**Seventy-Fourth Session  
May 14, 2007**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Jerry D. Claborn at 1:43 p.m., on Monday, May 14, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, 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:**

Assemblyman Jerry D. Claborn, Chair  
Assemblyman Joseph M. Hogan, Vice Chair  
Assemblyman Kelvin Atkinson  
Assemblyman David Bobzien  
Assemblyman John C. Carpenter  
Assemblyman Pete Goicoechea  
Assemblyman Tom Grady  
Assemblyman Ruben Kihuen  
Assemblyman John W. Marvel  
Assemblyman James Ohrenschall  
Assemblywoman Debbie Smith

**GUEST LEGISLATORS PRESENT:**

Senator Dean A. Rhoads, Rural Nevada Senatorial District

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Committee Policy Analyst  
Randy Stephenson, Committee Counsel



Susan E. Scholley, Chief Principal Research Analyst  
Christina Van Fosson, Committee Secretary

**OTHERS PRESENT:**

Jason King, Deputy State Engineer, State Engineer's Office, Division of Water Resources,  
Steve K. Walker, representing Truckee Meadows Water Authority  
Allen Biaggi, Director, Department of Conservation and Natural Resources  
Steve K. Walker, representing Truckee Meadows Water Authority  
Kelvin Hickenbottom, Deputy State Engineer, Division of Water Resources, State Engineer's Office  
Robert Sack, Division Director, Environmental Health Services Division, Washoe County District Health Department,  
Andy Belanger, Senior Management Analyst, Southern Nevada Water Authority  
Laura Billman, Contract Lobbyist, Nye County  
James Marble, Director, Nye County Department of Natural Resources and Federal Facilities  
Michael M. DeLee, Private Citizen, Amargosa Valley, Nevada

**Chair Claborn:**

[Called the meeting to order. [Roll called.] We will consider two bills today. We will start with Senate Bill 267 (1st Reprint).

**Senate Bill 267 (1st Reprint): Revises the powers and duties of the Legislative Committee on Public Lands. (BDR 17-205)**

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

About four years ago, the Legislative Committee on Public Lands handed the jurisdiction over water to an interim study committee. Earlier this year, I introduced a bill that created a standing committee on water matters throughout the State. There were negative reactions to the bill. Therefore, we transferred jurisdiction over water back to the Committee on Public Lands. The Committee on Public Lands will continue to monitor water issues in Nevada. Senate Bill 267 (R1) will accomplish this.

**Chair Claborn:**

I think the bill is good. I want to meet with you tomorrow, and perhaps we can work something out.

**Senator Rhoads:**

A meeting is set up.

**Assemblyman Goicoechea:**

Can you establish a subcommittee? It could be an extension of the Committee on Public Lands, and members of the subcommittee could deal with water issues.

**Senator Rhoads:**

I will do that if I can.

**Susan E. Scholley, Chief Principal Research Analyst:**

I believe you could appoint a subcommittee of the Committee on Public Lands. I suggest checking with our legal counsel to see how one could appoint members of a subcommittee.

**Senator Rhoads:**

I do not think there are provisions in the statute that explain appointing people to a subcommittee.

**Assemblyman Marvel:**

It would go back to a full committee.

**Senator Rhoads:**

The chair is responsible for creating the agendas. If water is a high priority, then water should be the main issue on the agendas.

**Assemblyman Goicoechea:**

Maybe our legal counsel could give us advice on creating a subcommittee.

**Randy Stephenson, Committee Counsel:**

Senator Rhoads is right. The Committee on Public Lands deals with many broad issues, but there are limits. The Committee on Public Lands could consider water issues, and Senator Rhoads could appoint a subcommittee to study subjects related to water. Thousands of dollars were appropriated to the Committee on Public Lands to award grants.

**Assemblyman Goicoechea:**

Will the subcommittee be comprised of members of the committee? What are the alternatives?

**Randy Stephenson:**

Generally, one would have to be a member of the committee to be on the subcommittee. When a committee member cannot be a member of the subcommittee, an alternate is appointed. The new language concerning the reviewing and commenting on water issues is discretionary.

**Chair Claborn:**

Could the chair appoint a subcommittee if the issue of water is bigger than expected?

**Randy Stephenson:**

The chair could appoint a subcommittee any time during the interim.

**Assemblyman Goicoechea:**

There are four Republicans who sit on this Committee who also represent rural Nevada. However, there is only one seat in the Committee on Public Lands.

**Chair Claborn:**

Perhaps you could motion to change that.

**Assemblyman Goicoechea:**

If we could talk you into giving up your seats, we would love it.

**Chair Claborn:**

I will meet with you tomorrow, and we will try to put something together that satisfies everyone's needs. We certainly would not give anyone the advantage, and do not think we did that in the Committee on Public Lands. The issue of water in Nevada is a problem, but forest fires, dairy products, and agriculture are important issues as well.

**Jason King, Deputy State Engineer, Division of Water Resources, State Engineer's Office:**

We fully support this bill, and we look forward to working with the Committee on Public Lands.

**Assemblyman Ohrenschall:**

Section 1(2)(a) states, "The Committee shall review the programs and activities of the Colorado River Commission of Nevada and all public water authorities. . ." Does the Committee on Public Lands have the authority to review the actions of the State Engineer? I noticed the State Engineer is not listed in statute.

**Jason King:**

The bill that pertains to the State Engineer's Office is in Section 1(2)(c). I believe the State Engineer's Office was not included in Section 1(2)(a) on purpose.

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

We support this bill, and we believe it is important to keep water issues on the forefront during the interim. I served on a technical advisory committee of a subcommittee of the Committee on Public Lands, and the advisory committee discussed domestic well issues.

**Chair Claborn:**

Are there questions for Mr. Walker? [There were none.] You studied wells for many years, correct?

**Steve K. Walker:**

I have been involved with the water business for about 15 years.

**Andy Belanger, Senior Management Analyst, Southern Nevada Water Authority:**

We support S.B. 267 (R1).

**Chair Claborn:**

Is there any more testimony for or against S.B. 267 (R1)? The hearing is closed on S.B. 267 (R1). We will open the hearing on Senate Bill 275 (1st Reprint).

**Senate Bill 275 (1st Reprint): Makes various changes relating to underground water. (BDR 48-208)**

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

This bill came from the Committee on Water Resources. We had seven meetings throughout the State, and there were many questions on issues related to wells. This bill should clarify the concerns on wells.

**Jason King, Deputy State Engineer, State Engineer's Office, Division of Water Resources:**

The Division of Water Resources (DWR) supports the bill. Section 1 of the bill gives one the ability to attach a second accessory building to a domestic well if a local ordinance allows it. A meter is required with the well. This part of the bill addresses the issue of affordable housing. In order to attach a second dwelling to a domestic well, people were forced to purchase expensive water rights and transfer them to their well. This provision allows one to attach a second accessory building without the purchase of water rights. Section 1.5 adds the language "exploring for water" to the list of uses for someone who

wants to get a waiver to temporarily use water to drill a well. Right now, a person is able to request a waiver from the DWR to search for water. People are allowed to search for water if they have a waiver, but they cannot use water to drill an exploratory well. This provision allows people to drill a well to search for production water.

**Chair Claborn:**

Are we talking about the same premises or are we talking about a truck that brings water to the premises? Are we talking about using a main well to drill?

**Jason King:**

Water suppliers are looking for a good well site. It might be in a basin where there was no drilling. They might drill a small six-inch diameter well in order get water to help them drill a much larger production well.

**Chair Claborn:**

They explore and drill holes until they find water, and then they use the water to build a bigger structure to hold the water? A water truck should be available to contain the water to drill. Are you talking about drilling another well? Would one need to have water to drill the first well?

**Jason King:**

The first well, which is the water supply of the larger well, can be drilled with a water truck. One could go out there with a water truck, and drill several hundred feet to reach a water source.

**Chair Claborn:**

Now I understand what is going on.

**Assemblyman Goicoechea:**

The well is drilled on a temporary permit. Does the well need to be abandoned?

**Jason King:**

Yes, it does. The well must be plugged as soon as they are finished using it. The time limit is 90 to 180 days.

**Assemblyman Hogan:**

When an accessory building is built, a meter has to be installed, correct?

**Jason King:**

That is correct. Under the current statutes, a domestic well serves one single-family dwelling. In order for a second accessory dwelling to be attached

to the domestic well, a meter must be installed so the well does not exceed 2-acre feet.

**Chair Claborn:**

Does 1,800 gallons of water per day amount to 2-acre feet?

**Jason King:**

We changed the definition of a domestic well. The old definition states one is allowed to draw 1,800 gallons of water per day, which equates to 2.02 acre feet. In this bill, we changed it to 2-acre feet. If I pumped 2,500 gallons per day in July, and 500 per day in February, but I did not exceed the 2-acre feet requirement, I did not violate the requirement.

**Chair Claborn:**

Is it safe to say that an acre foot of water would supply two homes per year? The requirement sounds lenient. Is that correct?

**Jason King:**

A household uses less than 1,000 gallons of water per day. The 1,800 gallons requirement has been in statute for a very long time. The requirement used to be 1 gallon per minute or 1,440 gallons per day.

**Assemblyman Hogan:**

There is a list of water uses in Section 1, paragraph 2. The list does not reference any form of irrigation. Is a person not allowed to do that?

**Jason King:**

Irrigation was left out. We consider that a different manner of use. If one was to purchase a 2.5 acre parcel, and there was 1 acre of lawn, we would tell the person that it is a different manner of use.

**Assemblyman Carpenter:**

It is my understanding that the accessory building can be another home on the lot.

**Jason King:**

Yes.

**Assemblyman Carpenter:**

If one places another house on his property, he would have to install a water meter?

**Jason King:**

The water meter would be installed on the well so the total amount of water diverted from the well to both structures could be measured. The meter ensures the 2-acre feet requirement is not exceeded.

**Assemblyman Carpenter:**

If there is only one house, the owner does not have to install a water meter?

**Jason King:**

That is correct.

**Chair Claborn:**

If there is no meter on the well, how can one know if the well is pumping more than 2-acre feet of water?

**Jason King:**

We would not know. When we do inventories on basins, we have staff in the field that read meters. If we see something out of the ordinary in a domestic well area, we would send a letter.

**Chair Claborn:**

If one builds a mother-in-law house in Las Vegas, water and gas is allowed, but cooking facilities are not allowed.

**Jason King:**

I believe the statute will change that. We have had that policy on mother-in-law houses for a while.

**Assemblywoman Smith:**

The bill also pertains to other types of buildings such as a shop, correct?

**Jason King:**

Yes.

**Assemblywoman Smith:**

I thought you said it only pertains to a domestic dwelling.

**Jason King:**

No. It could be another house, but it could also be another type of accessory building.

**Assemblywoman Smith:**

A meter is required no matter what type of building?



**Jason King:**

That is correct.

**Chair Claborn:**

Mr. King, would you like to continue going through the bill?

**Jason King:**

Section 2 states that the DWR assigns a date of priority to a domestic well. Domestic wells are the only type of water well in Nevada that does not require a permit or application. All other manner of uses of water requires an application, and that is how we establish a priority date. The language will assign a date of priority to a domestic well. The date of priority will be the date of completion of the well. Why are we giving a date of priority to domestic wells? When we regulate basins, we restrict water withdrawals on priority. Regulating domestic wells without priority is ineffective. It is a more level playing field.

**Assemblyman Marvel:**

Do well builders have to file a log for domestic wells?

**Jason King:**

Yes.

**Assemblyman Goicoechea:**

In the absence of a log, will the DWR notify the well owner? How do we know if the well owner filed a log? Do well owners need to provide other documentation?

**Jason King:**

If this bill goes into effect, I do not think we will identify all well owners that did not file a log. If someone petitioned the DWR to find a priority date of someone else's domestic well, we will collect that information. Section 2(4)(b) states, "The date of priority . . . demonstrated through any other documentation or evidence specified by the State Engineer."

**Assemblyman Goicoechea:**

I think it is agreed that it is critical to establish a priority date on a domestic well. We could call the DWR to if a log was filed for a particular domestic well.

**Chair Claborn:**

A person has three wells in his yard that were drilled 30 years ago, and he is using one well for his house, one well for his cattle, and one well for his fields.

How much water could he use from each well? Would he need to install meters on each well?

**Jason King:**

I am assuming one well is a domestic well, so it does not have a permit. The other two wells would have stock water. If a person has three wells, and none of them had permits, the DWR would tell the person that the two non-domestic wells must be made legal. If the person does not want to do that, we would begin enforcement action.

**Chair Claborn:**

Would you order the person to cap the well immediately?

**Jason King:**

Yes.

**Assemblyman Carpenter:**

Anyone who wants to drill a domestic well must file an application?

**Jason King:**

No. Once the domestic well is drilled, the domestic well log will be filed with the DWR and a priority date will be established. There is no application process.

**Assemblyman Carpenter:**

The DWR will just assign a priority date?

**Jason King:**

Yes.

**Assemblyman Carpenter:**

Will the meter requirement apply everywhere in Nevada?

**Jason King:**

The requirement is statewide.

**Assemblyman Carpenter:**

If there are several wells on a ranch, will every well need a meter?

**Jason King:**

The current language states one can do that if the local ordinance allows it. If the local ordinance does not allow it, we will advise the well owner to file an application.

**Assemblyman Carpenter:**

What do you mean by local ordinance?

**Jason King:**

Typically, it is at the county level.

**Assemblyman Carpenter:**

If the zoning is open space, how will the meters work? I can understand if there are a lot of wells and people in one area, but how will it work if there are three or four ranches in one valley?

**Jason King:**

This bill is not trying to go after ranchers, farmers, and other people that live in rural Nevada. If it came to our attention, we would pursue it and work with the people involved.

**Assemblyman Carpenter:**

Will there be regulations to accompany this legislation?

**Jason King:**

No, S.B. 275 will provide the ability to fine and assess penalties to the State Engineer, and regulations will be created to address infractions.

**Chair Claborn:**

Most of us know there are over 11,000 wells in Pahrump. Is this bill aimed at Pahrump and Nye Counties? Will this bill ensure that meters are installed on the wells in Pahrump? How much does a meter cost?

**Jason King:**

The bill will certainly affect Pahrump, as well as other basins in Nevada. There are other provisions in this bill that address the concerns and seriousness of the domestic well issue in Pahrump. I am not sure what it costs to install a water meter. The cost may be \$500 to \$1,000.

**Chair Claborn:**

Several people asked that question this session, and no one seems to know the answer. I would like to know what a meter costs, so perhaps you can find the answer for us.

**Jason King:**

I will get that information. I spoke with a number of farmers and ranchers that have large production wells. Five years ago, it cost them \$1,500 to \$2,000 to replace and install a water meter.

**Chair Claborn:**

It leads me to believe that the cost of installing a meter will be a hardship on many people in Pahrump. I do not think many people can afford the cost. The reason people moved from Las Vegas to Pahrump was to avoid high water costs.

**Allen Biaggi, Director, Department of Conservation and Natural Resources:**

The intent of the provisions is to ensure that local zoning is governing. If someone wants to build an accessory building on their property, they can do so provided they are not exceeding the statutory allowed amount of water. It is much cheaper to install a meter than it is to install a secondary well on the property. Mr. King, how much do wells cost?

**Jason King:**

It is probably \$35 per foot.

**Allen Biaggi:**

Even if the meter is \$2,000, the meter would be much cheaper than building a new well. We need to put what we are trying to accomplish into perspective.

**Chair Claborn:**

Do you know how much it costs to install a meter?

**Allen Biaggi:**

We can find out. I have heard that it costs \$500. My father recently installed a meter, and the cost was somewhere around \$500. The cost is dependent on the type of well, pumps, and system that is being used.

**Chair Claborn:**

When one reconverts household or agricultural water to sell it to businesses, do some water rights get taken away?

**Allen Biaggi:**

You brought up a couple of issues. First, a person cannot transfer his domestic water rights for other uses. If you are talking about the conversion of agricultural rights, that is a different issue. It depends on the basin one is dealing with. For example, the conversion of surface water in the Carson River basin requires a reduction in right because the consumptive use is different. For groundwater, conversion was tested. Provisions from another bill would allow the State Engineer to make those kinds of reductions.

**Chair Claborn:**

Last summer, I was involved in the conversion of agricultural water for business use. They sold the water rights; and they agreed to sell 15-acre feet. During the transaction, however, they wanted to sell 12.5-acre feet. They wanted to place the remaining 2.5-acre feet in the bank because they over allocated. The deal did not go through because the contract stipulated 15-acre feet of water. After five months of negotiations, the person was able to sell us his water rights.

**Allen Biaggi:**

Agricultural water has a different consumptive use. We are trying to allow the State Engineer to manage the State's water resources with good stewardship.

**Chair Claborn:**

I have concerns with the meter, though I understand the DWR wants to save water.

**Assemblyman Goicoechea:**

Section 1 addresses a single-family dwelling, and a ranch is not a single-family dwelling.

**Allen Biaggi:**

The bill is not intended to be retrospective. If there are existing buildings on a well, we will not require analysis and metering of those systems. This issue was raised by people in Washoe and Clark Counties because of local zoning issues. That is our perspective. If someone attached a shop or mother-in-law quarters to a single-family dwelling, a meter is required.

**Assemblyman Marvel:**

Do you allow domestic wells in a closed basin?

**Jason King:**

Yes, we do.

**Assemblyman Marvel:**

Is there a limit?

**Jason King:**

No, there is not.

**Allen Biaggi:**

Many years ago the Legislature recognized that the people should have the right to build an accessory building on their property. If conditions are right, they

should be allowed to build a domestic well. It was also recognized that water is becoming scarcer in Nevada, and that is why the DWR is requesting that priority of wells be acknowledged.

**Assemblyman Ohrenschall:**

If someone builds an accessory building and installs a meter on the well, would he have to report that? Will anyone from the DWR check on his well?

**Jason King:**

The bill describes how the process works. State engineers will monitor the usage of those wells. Domestic well owners will have to report to our office, and our staff will check those wells.

**Assemblyman Ohrenschall:**

Many meters in Clark County are electronic. In order to read the meters, does one need to go to the wells?

**Jason King:**

Yes.

**Assemblyman Carpenter:**

It seems there will be a problem with regulating existing wells. It is a huge undertaking, and many people might be dissatisfied with what is going on.

**Allen Biaggi:**

We are not opposed to the language that deals with single-family dwellings and meters.

**Chair Claborn:**

That sounds like an amendment to me. Are there questions for Mr. Biaggi? [There were none.] Mr. King, please continue going through the bill.

**Jason King:**

If we find four consecutive years of non-use, but less than five years, we send a letter to the well owner. We will give him one year to begin using the water. Section 3 will allow the State Engineer to use information that shows a well owner has not been using the water for four consecutive years.

**Chair Claborn:**

There was a person who refused to install a meter because he raised corn on a 5-acre field. Officials were accusing him of not using the water beneficially.

**Jason King:**

Section 3.5 allows the State Engineer to require dedication or relinquishment of a water right. This answers your question about Pahrump. It is a tool we can use to keep the basin balanced. In the past, we recommended that counties do this, but if the bill passes, it will be placed into statute.

**Assemblyman Goicoechea:**

If a person has a number of small parcels, could the DWR take water rights from those who are engaged in agricultural activities?

**Jason King:**

Are you talking about parceling a large parcel?

**Assemblyman Goicoechea:**

No. There are scattered parcels around the State, and every parcel owner has the right to drill a domestic well. Is that correct?

**Jason King:**

Correct.

**Assemblyman Goicoechea:**

What happens when Senator Rhoads decides to parcel a larger parcel in Elko, and the DWR requires a water right, but one is not available? Could he dedicate a water right from another parcel to that parcel? I am trying to consider all the possibilities.

**Jason King:**

That situation would never be subject to something like this. The DWR would not order the parcel owner to relinquish or dedicate a water right.

**Assemblyman Goicoechea:**

Elko County might do that.

**Jason King:**

It depends on the health of the basin. As long as we keep the basin in balance, we could do it.

**Chair Claborn:**

Are there questions for Mr. King? [There were none.] Please continue going through the bill.

**Jason King:**

Section 4 pertains to domestic wells and accessory buildings. A local ordinance must allow domestic wells and accessory buildings. Again, a meter must be installed on the well. The total withdrawal of water cannot exceed 2-acre feet. I want to offer a clarification. Section 4(3)(b) states, "The local governing body or planning commission shall report the withdrawal of water from the well on a form provided by the State Engineer." It is not our intent that the local agency monitors the usage and reports the usage to the DWR. Instead, the local agency will notify us if a domestic well is serving an accessory building. Section 4(3)(c) states, "The State Engineer shall monitor the annual withdrawal of the water from the well."

**Assemblyman Marvel:**

Regarding Section 4(3)(c), how many wells do you think the State Engineer will have to monitor?

**Jason King:**

We have staff in Las Vegas who read the meters in Clark County. There were 30 requests of this type in the last 10 years. We have the staff in Clark and Washoe Counties to monitor the wells.

**Assemblyman Marvel:**

How many wells will be monitored?

**Jason King:**

We had 30 requests for domestic wells of accessory buildings, so there are two or three dozen wells that we will have to monitor.

**Assemblyman Goicoechea:**

One needs an accessory building or mother-in-law quarters in order to be monitored. It does not mean the state engineers will monitor every domestic well in Nevada.

**Jason King:**

That is correct.

**Chair Claborn:**

If someone owns a barn that is attached to a domestic well, is that considered another dwelling?

**Jason King:**

If the barn is taking water from a domestic well to serve one single-family dwelling, the owner would have to install a meter on the well.



**Chair Claborn:**

Please continue going through the bill.

**Jason King:**

The language from Section 6 came from Senate Bill 485. Section 6 allows purveyors of water to receive a domestic well credit if a water right has been relinquished for the purpose of parceling. For example, if someone wants to parcel a large parcel into four smaller parcels, a dedication of a water right is required. The water right is placed under the county's name, and the county maintains the applications. However, the county cannot prove a beneficial use of the rights because there are domestic wells on the parcels. The local purveyors are faced with over 100 water right applications for 2-acre feet. It is a cumbersome process for water purveyors and the DWR. If someone wants to parcel his land, he can relinquish water rights instead of dedicating water rights and filing a change application. The water right goes away, and he does not have to file extensions year after year. The water right is relinquished back to the source, and the water purveyor can get credit.

**Assemblyman Goicoechea:**

I thought this bill was retrospective. I am concerned because there are parcels with domestic wells that are 14 years old. If the parcel has a domestic well, it could be serviced by a municipal entity, and the 2-acre feet of water will be dedicated to the DWR. Is that correct?

**Jason King:**

Yes, it is an accounting process. Next year, if someone wants to parcel down a property to four parcels, he will relinquish 2-acre feet per domestic well, and the water right will be relinquished back to the source. After that, there will be no more paperwork.

**Assemblyman Goicoechea:**

If a parcel is divided into four smaller parcels, which would be 8-acre feet of water, the water right can be dedicated to a water purveyor.

**Jason King:**

That is correct.

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

This section is specific to counties that require water right dedication when a domestic well is used on a new parcel. If the county does not require a water right dedication, and the parcel was created after 1993, the provision would not mean anything.

**Assemblyman Goicoechea:**

Thank you for the clarification.

**Chair Claborn:**

Mr. King, please continue going through the bill.

**Jason King:**

The amendments in Section 7 provide for local ordinances that do not require the dedication or relinquishment of a water right for parceling. In instances where parceling requires an additional domestic well, the State Engineer will be allowed to review the proposed parcel map, and to make recommendations concerning the water dedication.

**Assemblyman Goicoechea:**

If the county does not require the dedication of a water right, the State Engineer might require the dedication of a water right. Is that correct?

**Jason King:**

I believe the language in this bill gives the State Engineer the ability to require it.

**Assemblyman Goicoechea:**

How does one dedicate a water right to a purveyor that is not there?

**Jason King:**

The purpose of requiring a withdrawal or relinquishment of a water right is not so that the purveyor can get credit. The provision will allow the DWR to keep the basins in balance. If there are domestic wells that are throwing a basin off balance, our staff can review the parcel maps and require the relinquishment or dedication of a water right. The provision protects the health of the basin.

**Assemblyman Goicoechea:**

I see the need to do that, but I am concerned as to how we are going to get there.

**Jason King:**

The provisions apply to new parcels that will be created. If it is an existing parcel, we do not have the ability. The language will affect future parceling.

**Assemblyman Goicoechea:**

I foresee a parcel owner screaming and kicking if he has to relinquish or dedicate a water right. Again, I recognize the need and I support the bill, but I anticipate backlash.

**Jason King:**

I understand.

**Assemblywoman Smith:**

I am concerned that there is no fiscal note. The duties of the agency are significantly expanded.

**Kelvin Hickenbottom, Deputy State Engineer, State Engineer's Office,  
Division of Water Resources,:**

When a person dedicates a water right, the purveyor does not benefit from the full 2-acre feet. Basically, the purveyor will get a credit for the amount of water that was used on the lot. The purveyor does not get another water right.

**Chair Claborn:**

Do you work in Las Vegas?

**Kelvin Hickenbottom:**

No, I work in Carson City.

**Chair Claborn:**

Is there anyone from the Las Vegas office? [There was no response.]

**Kelvin Hickenbottom:**

When the water is relinquished, it is still allocated to the basin. It gets another appropriation when it goes back to the source. The DWR gives it another status. If we relinquished 10,000-acre feet of water in Pahrump, no one will get another water right from that relinquished water because it is still a committed resource.

**Chair Claborn:**

It was my understanding that once an owner loses 2-acre feet of the 15-acre feet, the 2-acre feet goes into a pool and the purveyor who has priority will receive the beneficial use of the water. Is that correct?

**Kelvin Hickenbottom:**

No. We would take the 15-acre feet and abrogate the water right. We would allow the purveyor to use only 12.5-acre feet. We are trying to protect existing rights. If we allowed someone else to get the remaining 2-acre feet, we would allocate another water right. The 2-acre feet will be left at the source, but the purveyor would not benefit from another allocation. Water will go back to the pool if a water right is cancelled or forfeited.

**Chair Claborn:**

Water rights were being sold to Star Nursery, which is an agricultural entity, so they did not lose the 2-acre feet.

**Jason King:**

Regarding the situation in Pahrump, Nye County does not have an ordinance to allow mother-in-law quarters, so we would not require owners to install meters. If there are multiple homes on one well, we would recommend the owner to get a water right.

**Chair Claborn:**

It is a pleasure working with the DWR, but there are so many rules and regulations.

**Assemblyman Goicoechea:**

I want to commend Senator Rhoads for bringing this bill forward. It is a comprehensive bill, and I support it.

**Robert Sack, Division Director, Environmental Health Services Division,  
Washoe County District Health Department:**

We support this bill. The bill solves the homeowner and customer service issue. If someone wants to build mother-in-law quarters on his property, the application process comes to a halt; this bill will make the process easier. Someone can build a secondary dwelling on his property without having to drill another well. Please keep in mind that this bill will help homeowners. Right now, it can take months or years to get approval to build an accessory building.

**Assemblyman Goicoechea:**

If one installs a kitchen in the mother-in-law quarters, it is not considered an accessory building?

**Robert Sack:**

If a second dwelling application came to our office, we would have to stop the approval of the building until we get a letter of approval from the DWR.

**Assemblyman Goicoechea:**

I thought the DWR would allow the owner to build a kitchen.

**Jason King:**

If someone wants to build a secondary building on a parcel that will be using water, he will need to fill out a form that states his property will have two structures using one domestic well. The form will be submitted to us, and we will require a meter on the well.

**Assemblyman Goicoechea:**

In Clark County, it is legal to build a mother-in-law quarters if there will be no kitchen in the building. Is that correct?

**Jason King:**

If there is any water use in the secondary building, it is considered illegal.

**Chair Claborn:**

Zoning officials will notify the owner not to build a kitchen.

**Assemblyman Goicoechea:**

Under this bill, any secondary building will need a meter.

**Jason King:**

This bill will allow local officials to approve and streamline the review process for secondary dwellings.

**Assemblyman Carpenter:**

Is there an acreage requirement?

**Jason King:**

It varies by jurisdiction. In Washoe County, new parcels must be at least 5 acres.

**Assemblyman Carpenter:**

I thought the law required 1.25 acres?

**Jason King:**

It used to be 2.5 acres in Washoe County. Several years ago it was changed to 5 acres. The change was due to the nitrate build-up in groundwater of densely populated basins.

**Assemblyman Goicoechea:**

State law requires 1.25 acres, but many jurisdictions changed it to 2.5 acres or 5 acres?

**Chair Claborn:**

In April 1996, I developed 2.5-acre parcels, and I was required to drill two wells. We got the situation resolved, but it ran me out of the developing business.

**Steve K. Walker:**

We support this bill. The provision that relinquishes water rights to the State Engineer will save a lot of money.

**Assemblyman Carpenter:**

What parts of the bill will affect Douglas County?

**Steve K. Walker:**

Section 6(4) is helpful for Douglas County. Douglas County also supports the section on mother-in-law quarters. We have the most interest in these sections because it will affect Douglas County.

**Assemblyman Goicoechea:**

It appears that you have a problem in Douglas County with plugging and abandoning wells.

**Steve K. Walker:**

There is not a problem with plugging wells. Once we get there, the abandonment issue will come forward.

**Assemblyman Goicoechea:**

Is that why you brought this language forward?

**Steve K. Walker:**

It is important that a well owner seals the aquifer once he abandons the well. It will prevent contamination of the aquifer.

**Andy Belanger, Senior Management Analyst, Southern Nevada Water Authority:**

We are neutral, but we support specific provisions of this bill. We support the concept of analyzing the duty and limits of domestic wells, the idea of expanding the definition of accessory dwellings, and the forfeiture provision that Assemblyman Goicoechea addressed during the interim.

**Laura Billman, Contract Lobbyist, Nye County:**

I do not know much about water, so I will turn it over to James Marble.

**Chair Claborn:**

Do you support the bill?

**Laura Billman:**

Mr. Marble was against the bill, but after listening to the discussion, he supports the bill.

**James Marble, Director, Nye County Department of Natural Resources and Federal Facilities:**

We are concerned with two portions of this bill. Section 3.5(3)(e) authorizes the State Engineer to relinquish water rights as a condition of parceling within a designated basin. Our county hydrologist envisioned a situation where a state engineer could require parcel owners to purchase water rights and then to relinquish those rights. This will drive up the cost of parceling in the basin. It looks like sound water management, but the Nye County Board of Commissioners opposes that provision.

Section (4)(4)(b) deals with the reporting of mother-in-law quarters that use domestic wells. It says the withdrawal of water from the well would be reported using a form provided by the DWR. The State Engineer said it was not their intent to require the local community to perform meter readings. The language is not clear. We hope the section will be amended to make it clearer.

**Chair Claborn:**

Can you provide a written amendment?

**James Marble:**

I do not have one right now.

**Assemblyman Goicoechea:**

Requiring the county to read meters is clearly not the intent of the bill. We are facing a deadline, and I do not think we should be proposing amendments.

**Chair Claborn:**

Mr. Marble, our last meeting is next Wednesday. Amendments to the bill should have been here sooner. We are running out of time.

**James Marble:**

I understand. Thank you.

**Chair Claborn:**

Is there opposition to S.B. 275 (R1)?

**Michael M. DeLee, Private Citizen, Amargosa Valley, Nevada:**

The bill is shifting many responsibilities to the DWR. Right now the counties are responsible for reviewing parcel maps. I am speaking on behalf of people who are working on parcel maps. Amargosa Valley is an example. There are places that are not heavily regulated, and that is why people purchase land there. People who purchased ten-acre lots, for example, may want to parcel the lots

and sell them. Many people did not think that water rights would be involved in parceling. Pahrump and other places imposed a water right relinquishment requirement, but that is not a requirement in other parts of Nye County. Section 10 states that this bill will be effective July 1, 2007, and it could be a wake-up call to those people that work on parcel maps. This document will show how much water rights cost ([Exhibit C](#))).

I installed and purchased water meters, so I would be happy to answer any questions related to water meters. About ten years ago, water rights in Pahrump were selling for \$1,500 per acre foot. Today, it would be difficult to purchase water rights for under \$15,000 per acre foot. The price increase was overnight, and it was the result of Nye County's decision to require relinquishment of water rights. We will see the same effect in other areas that imposed the requirement. The price will continue to increase.

I have problems with the definitions contained in the language of the bill. The bill references 2-acre feet. There are no *Nevada Administrative Code* (NAC) guidelines to accompany the 2-acre-feet provision. I think the provision is implied, but in Pahrump, the figure is 1.12-acre feet. We need to clarify this gray area. Will the bill be requiring 2-acre fee per parcel? If so, is that at the discretion of the DWR? Furthermore, one has to consider the size of the parcel. The interim report referenced 40 acres, but that is not reflected in the actual bill. In Pahrump, there was a period where one could parcel their property without water rights issues coming into play. Many existing provisions have been phased in gradually.

**Assemblyman Marvel:**

Did you testify before the Senate?

**Michael M. DeLee:**

No.

**Assemblyman Marvel:**

It is a little late in the session. Were you aware of the bill when it was heard before the Senate?

**Michael M. DeLee:**

No. I heard about this bill from my Assemblyman at a local meeting in Amargosa Valley.

**Assemblyman Marvel:**

There are three weeks left of the session. There is not much we can do.



**Michael M. DeLee:**

I realize that. I will not be making any amendments.

**Assemblyman Marvel:**

You should have proposed an amendment to the Senate.

**Michael M. DeLee:**

My comments are probably useless, but I want to bring the Committee's attention to some of these issues. As Assemblyman Goicoechea mentioned, there will be a backlash.

**Chair Claborn:**

We will probably have more meetings on this issue. You might want to attend some of those meetings.

**Michael M. DeLee:**

I provided the Committee with a printout that shows how much water meters cost. I retrieved the information from the Internet.

**Chair Claborn:**

Does the cost include installation, or is it the water meter itself?

**Michael M. DeLee:**

It is the water meter itself.

**Chair Claborn:**

Installation would be done by a government entity?

**Michael M. DeLee:**

No.

**Assemblyman Ohrenschall:**

Mr. DeLee, you oppose this bill. Do you think the bill will create hardships to your neighbors in Amargosa Valley? If so, how will the bill create hardships?

**Michael M. DeLee:**

The bill creates hardships to those people who want to parcel their property. Many people purchased property in Amargosa Valley to avoid the heavily regulated and overpopulated areas in Nevada. There are no jobs in Amargosa Valley; people who live there are retired. Many cannot afford to commute to Las Vegas because the gas prices are very high. Many people sell parts of their land to supplement their fixed incomes, but that will stop because they do not own water rights. There are no provisions to phase this bill in, and the impact

will be immediate. Amargosa Valley is an area that has been affected by other water rights issues. For example, one would have to purchase water rights and move them to the subject property. That is a problem because the transfer of water rights takes many years. The bill will impose a huge economic impact on my community.

**Assemblyman Goicoechea:**

State law states that dividing a 40-acre lot is not parceling. If it is less than 40 acres, it is parceling. It might be a hardship in some areas, but what are we going to do about groundwater depletion? You are talking about transferring water rights. The bill does not reference that. One will be required to acquire a water right and dedicate it. One does not have to transfer the water right.

**Michael M. DeLee:**

Is it the Committee's intent to allow the relinquishment of a valid water right and allow the parcel of land in the same basin? It is still a financial impact.

**Assemblyman Goicoechea:**

I believe that is the intent of the legislation. There is no transfer involved.

**Jason King:**

Regarding the relinquishment of water rights, we care if it is a valid water right in the basin. A change application is not involved. One fills out a single form, and one does not have to go through the application process.

**Michael M. DeLee:**

Are there no divisions? If parceling occurs on the fan of the basin, one could not use water rights to benefit something on the fan. There is a price difference between those two water rights, even though it is one numerical basin.

**Jason King:**

That is an interesting twist to this discussion. You are saying that if there is a parcel on the fan, the water right could be relinquished?

**Michael M. DeLee:**

Yes. It seems you are saying that it does not matter if parceling occurs on the fan or off the fan because it is one numerical basin.

**Jason King:**

There is a difference. The language says it is a valid water right in the eyes of the State Engineer. Pahrump is special. There are "on the fan rights" and "off the fan rights." If parceling occurs on the fan, the State Engineer will

require the relinquishment of a fan right for the purpose of drilling domestic wells. I believe Pahrump is the only place in Nevada where that occurs.

**Michael M. DeLee:**

I wish that were true. It was speculated that Amargosa Valley has three sub-basins. It makes matters worse when these things are not clarified.

**Chair Claborn:**

I do not think we will settle all of Nevada's water issues in one bill. We are talking about secondary dwellings; let us stick to the issues at hand.

**Assemblyman Goicoechea:**

I would like a response on Amargosa Valley's sub-basins. That is one of the few places in Nevada where the State Engineer would not accept a transfer of water rights.

**Jason King:**

Yes, I did mention that. However, it does not change what we are trying to accomplish. If there is problem, let us address the problem. If it requires the relinquishment of a water right that is specific to that area, it is incumbent upon the State Engineer to do it. Those instances are rare. We are assigning priority to a domestic well. If someone in Amargosa Valley drills a domestic well without the benefit of the relinquishment, he will get priority.

**Assemblyman Goicoechea:**

The State Engineer has the ability to create sub-basins in those basins. If there are basins in Pahrump that have fans, perhaps the sub-basins need to be considered as the transfers occur.

**Jason King:**

That is true, and I envision the State Engineer issuing an order.

**Assemblyman Goicoechea:**

It would be productive.

**Michael M. DeLee:**

We need to pay careful attention to Nevada's water resources, but we also have to consider due process. Section 3 deals with water forfeitures. I support that portion of the legislation, but it raises concerns. The purpose of the four-year notice is to give a warning to the landowner. The State Engineer could not send four-year notices on basins that were not inventoried. I would like to see the State Engineer send out four-year notices, but I am concerned that it is not an issue in those basins. As a result, forfeitures will increase.

**Assemblyman Goicoechea:**

The basin would have to be inventoried by the State Engineer in order to receive a four-year notice.

**Michael M. DeLee:**

That is my concern because the legislation references four years.

**Assemblyman Goicoechea:**

It does not matter if it is 20 years. Once the State Engineer notifies the owner, the owner has one year to cure the problem.

**Chair Claborn:**

Are there anymore questions? [There were none.] Is there anymore testimony? [There was no response.] We will close the hearing on S.B. 275 (R1). We will meet on Wednesday. We are adjourned at [3:48 p.m.].

RESPECTFULLY SUBMITTED:

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Christina Van Fosson  
Committee Secretary

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Patricia Evans  
Transcribing Secretary

APPROVED BY:

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Assemblyman Jerry D. Claborn, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Natural Resources, Agriculture,  
and Mining

**Date:** May 14, 2007

**Time of Meeting:** 1:30 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	
	A	Committee on Natural Resources, Agriculture, and Mining	Agenda
	B	Committee on Natural Resources, Agriculture, and Mining	Attendance Roster
S.B. 275 (R1)	C	Michael M. DeLee, Private Citizen, Amargosa Valley, Nevada	Water Meter Prices 2005