

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-fourth Session
March 14, 2007**

The Senate Committee on Natural Resources was called to order by Chair Dean A. Rhoads at 3:32 p.m. on Wednesday, March 14, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dean A. Rhoads, Chair
Senator Mike McGinness, Vice Chair
Senator Mark E. Amodei
Senator Joseph J. Heck
Senator Bob Coffin
Senator Michael A. Schneider
Senator Maggie Carlton

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Ardyss Johns, Committee Secretary

OTHERS PRESENT:

John P. Sande III, Nevada Franchised Auto Dealers Association; Western State Petroleum
Alfredo Alonso, Alliance of Automobile Manufacturing
Mike Ingham, Chevron Corporation
Randy Tackett, Champion Chevrolet
David Patterson, Research and Design, Mitsubishi Motors
Vernon Miller, Chemist, State Department of Agriculture
Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association
Doug Busselman, Nevada Farm Bureau
David G. Holmgren, Chairman, Nevada Live Stock Association
Boyd Spratling, D.V.M., President, Nevada Cattlemen's Association
Don Alt
Ramona Morrison, Nevada Live Stock Association

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Janine Hansen, Independent American Party
Walt Leberski

CHAIR RHOADS:

We were scheduled to hear Senate Bill (S.B.) 75 today, but we have pulled it from the agenda due to some problems the office of the state engineer had with the bill.

SENATE BILL 75: Revises provisions governing subsisting rights to water livestock. (BDR 48-263)

CHAIR RHOADS:

Public comment on S.B. 75 may be heard when the time comes today; however, we will open the hearing now on the remaining bill, which is S.B. 105.

SENATE BILL 105: Revises provisions governing regulation of motor vehicle fuel. (BDR 51-258)

JOHN P. SANDE III, (Nevada Franchised Auto Dealers Association; Western State Petroleum):

I am here in support of S.B. 105. The State Board of Agriculture, State Department of Agriculture, is responsible for adopting standards for motor vehicle fuel in the State to ensure it runs the car adequately. In 1988 and 1989, there was concern that California was becoming such a clean state with their motor vehicle fuel requirements that Nevada might be left behind and have a situation where a lot of bad fuel was coming into the State. Therefore, in 1989, the Legislature instructed the Board of Agriculture to adopt regulations mirroring the ASTM International standards as they would change from time to time. That is basically what this bill is meant to do. I have furnished you with some background information on ASTM International ([Exhibit C](#)). I have also furnished a proposed amendment to the bill ([Exhibit D](#)).

Subsequently, in 1991, the Legislature decided it had not gone far enough and must do something more than the ASTM standards so it instructed the Board of Agriculture to go a step further and adopt California fuel standards, which were more stringent. Finally, it was determined we should not be mimicking California and so the bill was amended, but there was no reference to the ASTM. I will explain what the ASTM standards do in Nevada. If you go south across the

38th parallel, which is a line across Nevada just south of Tonopah, gasoline is more volatile than in the northern part of the State. It is very complex, but basically the ASTM looked at a study done in the 1940s, which looked at temperatures and altitudes across the United States. The Coordinating Research Council is a nonprofit organization that does studies of automobiles at various temperatures and elevations to see how they perform using various qualities of gasoline. As a result, the ASTM has a different standard for southern Nevada than it does for northern Nevada. If you use gasoline that is too volatile, it results in vapor lock in older cars that have carburetors, and what we call "hot fuel handling" problems in newer cars.

Someone at the State Board of Agriculture thought it would be a good idea to bring in fuel from Salt Lake City and sell it in southern Nevada. In order to do that, you have to eliminate the 38th parallel and have one standard for the entire State. This was done at a hearing in Winnemucca and no one from the industry was notified and therefore did not attend that hearing. There was no data or scientific evidence presented at the hearing. With no scientific data at which to look, how can you be sure you are protecting the residents of the State? Now is the chance to go back and adopt what we had before, which has worked well and is supported by all of the industry groups and car dealers in Nevada.

ALFREDO ALONSO (Alliance of Automobile Manufacturing):

We also support S.B. 105 for the same reasons indicated by Mr. Sande. Part of the reason the regulation was implemented was due to some of the gas shortages we had in southern Nevada and some of the issues that came up during that time. We would have no problem with including some kind of emergency-waiver type of solution in case of shortages. If there were an emergency, a waiver of the ASTM standards would be a way to address the problem. The standards of the ASTM are fair and equitable and a solid method of protecting the public and our automobiles. David Patterson, who is here today, is the senior manager for mobile emissions, regulatory affairs and certification for Mitsubishi. He will address the problems of drivability from a technical standpoint.

SENATOR CARLTON:

Comparing this bill to the *Nevada Revised Statute* (NRS) 590.070, there are some exemptions in the current statute that are not listed in this proposed change. Aviation fuel is one of them. Was that an oversight?

MR. SANDE:

No, that is addressed in another section of NRS 590.

SENATOR CARLTON:

So, the exemption listed under NRS 590.070 no longer needs to be there?

MR. SANDE:

A different section regulates aviation fuel. The ASTM standards do not apply to aviation fuel.

SENATOR CARLTON:

Would there be any other exemptions?

MR. SANDE:

Mr. Alonso indicated a possible waiver provision. All of the surrounding states have the ASTM standards, and California has a waiver provision that if a refinery cannot make the fuel for a short period of time, the waiver allows for alternative sources of fuel for that period. That would be something you might want to put in the statutes, or at least encourage the Board of Agriculture to adopt. Even though this applies to the State of Nevada, there are stricter standards in Clark and Washoe Counties because of the State Implementation Plans (SIP) they have with the U.S. Environmental Protection Agency (EPA). If there is a problem with the fuel in those counties, in the past, the Governor has requested from the EPA a temporary waiver of the specifications so they could supply from Phoenix or from the California Air Resources Board gasoline. One of the proposed amendments was requested by the Clark County Department of Air Quality. They intend to try to amend their SIP to address eight-hour ozone problems that are the new standards. We included additional language that reads, "established by ASTM International or such standards proposed by any Nevada State, regional or county air-quality agency to attain or maintain national ambient air-quality standards." Therefore, in Clark County, you may have an even stricter requirement because of air-quality issues. There are a lot of alternative fuels, such as biodiesel, that are being used by the school districts and others. Some are experimental and are regulated by the Division of Environmental Protection, State Department of Conservation and Natural Resources. We did not intend to include alternative fuels when we drafted this bill, so our proposed amendment under section 1, subsection 2 strikes the words "or any alternative fuel."

SENATOR CARLTON:

Would this amendment allow the regional or county air-quality agencies to change the standard and force the Board of Agriculture to change the standards, or does it just instruct the Board to take those things into consideration? I do not want an air-quality agency, even though well-meaning, deciding what gas I should put in my car.

MR. SANDE:

Only if it was part of a SIP would they have to take it to the EPA for approval. In a sense, it would be like the EPA saying, "If you want to sell gasoline or petroleum products in Clark County, it has to be of this quality to make sure you can attain all these things." There is currently litigation with the EPA over the eight-hour ozone standard, which may change everything down the line, but this would only be to attain what is required by the EPA.

MIKE INGHAM (Chevron Corporation):

I am here to answer technical questions like the one just asked by Senator Carlton. Clark County currently has a winter-gasoline program. A portion of that program involves a cap on vapor pressure. That whole program is part of an EPA-approved SIP. The vapor pressure cap was actually a standard that was adopted by the State Department of Agriculture. The reason for the amended language in the bill is to be sure that pathway is still open to Clark County for purposes of adopting what they believe they will be required to do to address this eight-hour ozone situation.

CHAIR RHOADS:

Are you saying if this bill is not passed, Clark County will not pass its clean-air standards?

MR. INGHAM:

No, they would continue to do just what they did when they adopted that winter vapor pressure cap. Their concern was if the Board were required to adopt the ASTM specifications, it might somehow prevent them from adopting this more stringent specification on vapor pressure in the summer than what the ASTM would require. There was no intent on our part to limit Clark County's ability to do that.

CHAIR RHOADS:

Why did they pick the 38th parallel?

MR. INGHAM:

That is what the ASTM picked. That is based on an analysis of historical temperature records measured at locations all around the State. They looked at temperatures throughout the State and concluded there was a reasonable line of demarcation that existed at the 38th parallel above which the temperatures were typically 10 to 15 degrees cooler than they are below. That has been in the Nevada ASTM specification for many years. Another thing that was done in the progression of discourse with the Board regarding this change in specification was to hire the Desert Research Institute (DRI) in Reno to analyze more modern temperature records to see whether or not things had changed significantly. The DRI found that average temperature data that came out of the analysis of the original study is largely unchanged today. There is still a very distinct line of demarcation that is roughly represented by the 38th parallel. It shows that the temperatures below that point, on average, are 10 to 15 degrees warmer than they are above it. That is the basis for the distinction the ASTM makes in their specifications, and it is the distinction we are trying to reinstate through this bill.

CHAIR RHOADS:

So, all of the surrounding states have adopted these standards?

MR. INGHAM:

Yes, they have all adopted the ASTM standards without removing these kinds of distinctions that have been eliminated here by the Board.

SENATOR COFFIN:

This is a fundamental question when someone wants to make a change in statutes and commercial interests are involved. What does this do to the markets? Is there an attempt to change the share of the markets on behalf of one group of people versus another? Whenever someone makes a move on an existing statute, there is a reason for it. Can you explain to me what passing this bill, with the amendment, is going to do to the markets?

MR. INGHAM:

Perhaps, I can explain it by explaining what doing away with that line of demarcation allowed to occur. Previously, gasoline in southern Nevada had to meet one specification, and gasoline in northern Nevada had to meet a somewhat less stringent and a bit more volatile specification. This change, implemented by the Board, eliminated that distinction and therefore enabled the

possibility of moving gasoline from Reno, Sparks or Salt Lake City and marketing it below the 38th parallel. This bill would change that back to the way it was before. However, it does eliminate a resupply path that exists today because of the change the Board made. How that would affect anyone's market share, I could not begin to guess, but I can tell you, from my standpoint, market share is not what this is about. This is about trying to protect the consumer and ensure the consumer is getting a fuel that is not going to cause him problems under the ambient conditions to which he is typically subject if he lives south of the 38th parallel.

SENATOR COFFIN:

I am glad you are doing this purely in the interest of clean air, but I have seen trucks from Salt Lake City fill up at the tank farm in North Las Vegas and head north, so apparently they are not worried about selling that cleaner gasoline in the north.

MR. INGHAM:

This is not so much about clean and dirty. It is about whether or not the volatility of the gasoline is properly tailored for the vehicle and the ambient conditions in which it is operating. The danger you get into with putting northern, more volatile, gasoline into an older vehicle operating in a warmer climate, is a possibility of vapor lock. In newer automobiles, you run into what is called "hot fuel handling" problems. It can manifest itself as poor drivability; when you restart the car when it is hot, it is hesitating upon acceleration or just difficult to start. It is akin to vapor lock in older, carbureted vehicles. It could be a clean-air issue to the extent that if the automobile is not driving properly, it is probably emitting more than it would if it were operating correctly.

SENATOR COFFIN:

Are we really worried about carbureted vehicles versus all the others?

MR. INGHAM:

We are not only worried about carbureted vehicles, but new automobiles suffer these same kinds of problems.

RANDY TACKETT (Champion Chevrolet):

I am here to testify in favor of S.B. 105. What I have seen in the northern Nevada market with poor quality of gasoline is a cost to the consumer when they bring their vehicles in to my repair facility. Often, what was perceived to

be a problem with the vehicle was actually a problem with the gasoline. The automobile manufacturers have had to make programming changes due to the fuel-volatility rate and revapor pressures on the gasoline. We have sent samples to General Motors and other manufacturers to have it tested and they have stated it is the fuel causing the concern. One of my concerns is there are people spending dollars on their vehicles that, if they had a quality gasoline, would have been unnecessary. We have done everything we can, from the repair-shop perspective. Other dealers with whom I have spoken say other manufacturers have had the same concern. From a dealership's stance, that is why we need a better quality fuel.

SENATOR COFFIN:

Who has provided you with bad gasoline? Is it all across the board, or is a particular distributor?

MR. TACKETT:

What we have seen is across the board. We recently sent seven samples from seven different manufacturers of gasoline to General Motors for testing. I do not have those numbers showing how many were bad, but they did say the one we sent that we suspected was causing the problem for the vehicle in question, was poor gasoline. General Motors has, since then, come up with a programming change to help with that drivability problem.

SENATOR COFFIN:

Could that gasoline have come from Chevron?

MR. TACKETT:

It could have, or it could have come from a number of places.

CHAIR RHOADS:

Is there a penalty involved if a gasoline supplier is not meeting the standards for emissions?

MR. TACKETT:

I do not know.

DAVID PATTERSON (Research and Design, Mitsubishi Motors):

I am here to testify from a manufacturer's point of view. One of our concerns is what happens when customers have problems with their cars. They bring it into

the shop where it will be evaluated. Many times, with a fuel issue, the shop will look at all of the hardware of the vehicle and not find any problem. They then will suspect there is a problem and replace some parts. The customer will leave and then have the same problem and bring the automobile back. This looks bad on both the manufacturers and the service technician, when actually, the problem was with the fuel. It is a very subtle thing. That person could have filled up at a gas station a week ago and not even remember where they did so. The last thing anyone thinks is that the problem is the fuel. We all take it for granted that the fuel is the proper specification.

To answer your question regarding our monetary concern, we are focused on our customers and our reputation as manufacturers and as dealerships. When we design a vehicle, we design it to specific parameters, and one of those parameters is the ASTM fuel standards. We spend millions of dollars to make sure the vehicles run with the proper fuel. When that specification is violated, it is outside our design envelope. We can change the design of our vehicle for future vehicles, but the problem here is with the current vehicles. I am more concerned about people who currently own vehicles than the people who will own vehicles in the future. If this change is made, we can change our design, but we cannot change the design of the vehicles already in the field.

CHAIR RHOADS:

The Board of Agriculture is usually responsible for fuel standards. Is that no longer the case?

VERNON MILLER (Chemist, State Department of Agriculture):

It should be, but while the Agriculture Department remains neutral in regard to S.B. 105, the Board of Agriculture does have the authority per the NRS and the *Nevada Administrative Code* (NAC) to make the change. I do not disagree with following the ASTM standards, but when we start following those standards as they are, it will take away the flexibility for the State of Nevada to actually do something different should a fuel disruption occur. There are no refineries in Nevada, so if something should come up and we are locked into an ASTM standard, it would not give us the necessary flexibility.

CHAIR RHOADS:

We would not have the options we now have?

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MR. MILLER:
That is correct.

MR. MILLER:
Regarding the comment made by Mr. Sande regarding not having someone at the hearing in Winnemucca, notice of that hearing was sent to his constituents and was on the agenda as an action item. That was back in 2004.

CHAIR RHOADS:
Was there a vote?

MR. MILLER:
Yes, the Board approved deleting the 38th parallel demarcation. The existing standard has been in effect since 2004.

SENATOR CARLTON:
At that 2004 meeting, who proposed the change?

MR. MILLER:
The proposal for the change was brought to us by the industry. We had already attended workshops and hearings, and with no opposition, it was just a matter of voting.

SENATOR CARLTON:
How much discussion was there regarding potential impacts of the science behind the 38th parallel?

MR. MILLER:
There was no discussion regarding that issue. In my opinion, there is no real Nevada-specific science existing at this time. There is a study being done in Phoenix that deals with hot-fuel issues and may be of some concern for Nevada as to how this may affect the area south of the 38th parallel.

SENATOR CARLTON:
So, when the Board, which is charged to protect the public, made the decision many years ago to go along with the 38th parallel argument, they must have thought there was something to it at that time.

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MR. MILLER:

I was not here at that time, so I do not know.

SENATOR CARLTON:

Do you know how long ago that might have been?

MR. MILLER:

Well, ASTM, as well as the 38th parallel, has been on the books for a long time, possibly, the late 1960s or 1970s.

SENATOR CARLTON:

I would like to have all of the pertinent comments and workshop documents available leading up to when the decision was made, who proposed the changes and who participated, so I can look at the players. Often, you can figure out what is really going on when you know who was in the room.

SENATOR COFFIN:

I served four years on the Senate Committee on Commerce and Labor, so I picked up those same instincts with which Senator Carlton operates. I have noticed some 85-octane fuel available in Las Vegas. Is that gasoline from Utah?

MR. MILLER:

I would say it is, because Utah does produce 85 octane, and we do get 85 octane in the northeastern part of the State from Utah, but I cannot say for sure. As long as it is posted as 85 octane, it is okay to sell.

SENATOR COFFIN:

Is it okay to sell all year long?

MR. MILLER:

Within NAC, there is no particular minimum octane and it is allowed in the northeastern part of the State. However, the way it is written in the NAC, it is unclear if it should be sold in Clark County.

PETER KRUEGER (Nevada Petroleum Marketers and Convenience Store Association):

Nevada Petroleum Marketers and Convenience Store Association is the trade association that represents Nevada-based petroleum wholesalers and retailers. The question was asked about penalties for selling off-specification gasoline.

There is a penalty. We are the group that asked the Board of Agriculture to waive the 38th parallel standard as it applies to revapor pressure. The reason we did it was simply one of supply. There are times when the fuel supply that would normally be provided to Ash Springs, Pahrump and other areas outside of Clark County is disrupted for one reason or another.

The supply issue generally is a wintertime issue, but the 38th parallel is not specific to a particular time of the year. The other issue we heard about was drivability. We had new hearings in 2006 regarding drivability. All of the stakeholders contracted with the DRI that conducted a significant study of existing law and made a determination. Based on that review the Board of Agriculture chose not to reinstate the 38th parallel rule. We are here today because the proponents of this bill believe the only way to do this is to come to the Legislature and not rely on the Board of Agriculture. The Board heard from my segment of the industry and was properly convinced. There were questions about science. As was testified to, there is no clear science that reports one way or another. The drivability studies conducted by the industry have generally been done in the state of Washington where it is a little cooler. The Board has agreed to wait for a study being done in Phoenix to see if it provides more definitive science. This bill is a rush to judgment. It removes the flexibility of the Board by saying the Board shall adopt the ASTM standards. The proponents of S.B. 105 do not like exceptions to that. However, they carved that one exception in their amendment to allow any State, regional or county air-quality agency to attain or maintain national ambient air-quality standards, because otherwise, those agencies would have opposed the bill.

MR. KRUEGER:

Another organization is the Las Vegas Regional Clean Cities Coalition, which promotes alternative fuels. The way we read this bill, that organization, like my organization, would be essentially locked out of the process. Unless you are an air-quality agency, the Board could not consider any request to make a change. There was testimony that all surrounding states have only the ASTM standards. I will refer you to New Mexico, where applications exist to allow gasoline specifications to be modified to ensure the fuel supply without compensating quality. In other words, New Mexico is a state that allows their regulatory body to make that change. Wyoming has numerous changes to the ASTM standards as well as states farther east. Nevada currently has at least one exception to the ASTM standards. That exception has to do with what Mr. Sande obliquely referred to as a fuel-quality issue. The whole industry came to this Committee

back in 1989 and said California is making these rapid changes in fuel quality and we do not want their less-quality fuel. There was really nothing wrong with the fuel, but we did not want California dumping a substandard fuel here, so we adopted some language. Currently, in NAC 590.065, our fuels must have certain lead, magnesium and phosphorous levels, which is an exception to the ASTM standards. Under this bill, that would be eliminated. Currently, the ASTM recognizes 85 octane here in Nevada, so it is no longer an exemption. We are simply saying that for this Legislature to tie the hands of a body approved and operated under the auspices of legislative authority, and say you cannot adopt anything but the ASTM standards, is a mistake. One size does not fit all. We need to have that flexibility.

MR. KRUEGER:

We heard from the engine manufacturers, who were all part of this process after we got back together again in 2006 and held repeated hearings. The science "was unconvincing." During the testimony, the auto manufacturers and the dealers could not present factual data that cars quit running. I have not seen cars pulled over to the side of the road for that issue. Mr. Alonso led with the idea of a waiver, which we do not oppose. I have spoken with Mr. Sande and other representatives with the Western States Petroleum Association and asked to be included. There have been a lot of meetings in the last year or more, and we have never been included. As you know and see with the price of gasoline right now, it is a free market. As supply is tightened due to any number of things, a natural disaster, refinery fire, those kinds of things, the price accelerates.

We would like to see a waiver and be a part of that discussion. It could be done within the lowest possible level of State government. For example, if it is determined that we have a supply problem in Ash Springs, a waiver would allow product to come from somewhere. Usually, a supply problem develops because there is no fuel in the Las Vegas market to supply Ash Springs. We are opposed to S.B. 105. The current situation is working fine. We need to wait and see what science comes out of the latest study just completed in Phoenix.

CHAIR RHOADS:

Could you give us a list of states that do not require the ASTM standard?

MR. KRUEGER:

Yes, I can.

SENATOR COFFIN:

Regarding the possibility of shortages, refineries of any kind can shut down for a period of time, which could cause a shortage. How are we doing as far as the ability to get emergency fuels here, which may not meet our standards in southern Nevada? Have we created enough flexibility for that, or are we still lacking?

MR. KRUEGER:

I can refer you to the Clark County Blue Ribbon Task Force that completed its work near the first of the year. They came up with the same kind of findings. The fuel supply in Nevada is fragile. Today it is fine, but tomorrow it may not be. Kinder Morgan has committed, according to testimony before the Blue Ribbon Committee, to increasing the pumping volumes and look at building a new pipeline from California. One of the major problems is that we are served at both ends of the State by a single pipeline. We do not draw fuel out of the Phoenix area.

SENATOR COFFIN:

They promised us in 2001 to increase supply capability. I doubt it has happened to the degree they promised it would six years ago. Both ends of the State live on very fragile and vulnerable pipes. I would like to see another pipeline brought in from Salt Lake City or Phoenix and avoid being held captive by this one company. We were talking about making exceptions. Did we require during the last Session that the local health districts would have to waive the grade of fuel if there were a supply problem?

MR. KRUEGER:

No, we did not.

SENATOR COFFIN:

I still think it is a good idea. I am all for clean air, but we need to have fuel, or the economy stops.

MR. KRUEGER:

When it comes to air quality, the system is working well. The Department of Agriculture took the bull by the horns when no other State agency would. One exception was when the rains occurred in El Cajon Pass and wiped out the pipeline. The Department went through the Governor's office and requested a waiver through the EPA. We brought in fuel and satisfied the driving public's

need. That has worked well, but it is an air-quality issue. If we could work out the language, this would address the supply issue that is not tied to air quality.

CHAIR RHOADS:

We will close the hearing on S.B. 105 and allow time for public comment on S.B. 75, which is the stock water bill that was pulled at the last minute today.

DOUG BUSSELMAN (Nevada Farm Bureau):

This particular approach to S.B. 75 works well, because we were planning to speak in a neutral position. I will read the testimony I have prepared ([Exhibit E](#)).

DAVID G. HOLMGREN (Chairman, Nevada Live Stock Association):

I hope you will take a good look at the handout I have provided ([Exhibit F](#)). It addresses many points that were added to the old statute and will give you an idea of why we are against S.B. 75. It will do stock water-rights holders no good whatsoever. In fact, it would allow the Bureau of Land Management (BLM) and the Forest Service to undermine the integrity of the vested water rights through these subsisting water claims. We suggest S.B. 75 be withdrawn, but if not, please vote no on passing that kind of legislation.

BOYD SPRATLING, D.V.M. (President, Nevada Cattlemen's Association):

Our policy is very similar to that of the Nevada Farm Bureau in that protection of existing rights is the most paramount concern. If we can supply the process of recording claims of vested stock water use, we support that as well. Whether or not this bill does that, I am not sure, but we would like to move forward with some simplification of that filing process.

DON ALT:

You all have a copy of an affidavit that was done for me by Bert Perondi in Lyon County so that I could obtain water rights ([Exhibit G](#)). You can see that in the 1870s, there was enough water for 1,000 head of cattle. Currently, my allotment is reduced to 45 head. The forage is knee-deep from last year and is going to waste. History is what regulation of water should be based on and not the permit. It is my opinion that the permits are bogus because the numbers have been reduced so much, and we are burning up our ranges because of it.

RAMONA MORRISON (Nevada Live Stock Association):

I have conducted extensive research on various ranchers' exhaustive chains of title in various states, including Nevada, Arizona, New Mexico, Wyoming and

Colorado. Affidavits are common in the filings on any kind of water rights. It is the simplest and cleanest way to approach the problem brought up by Dr. Spratling. The existing tradition of using affidavits is, from a legal point, better than anything else that can be done. In addition, if you look at the water rights in the State of Nevada, most of them go as far back as the 1860s when this land was first settled. On all of these water rights, it is when the first cattle were out on the ranges that provide evidence of the date of priority use. The point of use is the introduction of the cow and consequently, if we go back to our exhaustive chains of titles on these ranches, I think virtually every rancher in the State will find they have secure vested water rights. If there is any question as to specific points of view or specific water areas in this instance, that can be clarified with an affidavit.

JANINE HANSEN (Independent American Party):

The Independent American Party has been very involved in the protection of property and water rights in cooperation with other groups throughout the State. We are significantly concerned regarding this bill. It gives greater influence, control and credence to the BLM and the Forest Service, which have often been antithetical to our basic, important industry of ranching in Nevada. As their influence has increased, the number of ranches in Nevada has decreased by almost 50 percent. I now live just outside of Elko and have experienced wildfires that have threatened our friends. Some of the fires came right up to their fence line and they were evacuated in Kittridge Canyon. Under the management we have endured from the BLM and the Forest Service, we have not allowed cattle to eat the grass. In other words, we have encouraged the massive wildfires under the BLM. Nevada used to have a great ranching industry. This has been completely undermined by the influence of the BLM and the Forest Service. We have continually stood up for the rights of the ranchers and the position of the Nevada Live Stock Association has great credence.

WALT LEBERSKI:

The current statute allows you to use an old BLM or Forest Service permit as the basis for your water-rights claim. Permits are the easiest way to designate numbers of livestock, their location and season of use. I would like to continue working on a way to simplify filing vested livestock water on the open range without the huge expense incurred in many instances.

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CHAIR RHOADS:

There being no further business before the Senate Committee on Natural Resources, we are adjourned at 4:46 p.m.

RESPECTFULLY SUBMITTED:

Ardyss Johns,
Committee Secretary

APPROVED BY:

Senator Dean A. Rhoads, Chair

DATE: _____