

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

**Seventy-Fifth Session  
May 4, 2009**

The Committee on Natural Resources, Agriculture, and Mining Subcommittee was called to order by Chair David P. Bobzien at 2:42 p.m. on Monday, May 4, 2009, 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/75th2009/committees/](http://www.leg.state.nv.us/75th2009/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).

**SUBCOMMITTEE MEMBERS PRESENT:**

Assemblyman David P. Bobzien, Chair  
Assemblyman Pete Goicoechea  
Assemblyman Tick Segerblom

**SUBCOMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

J. Randall Stephenson, Committee Counsel  
Jennifer Ruedy, Committee Policy Analyst  
Judith Coolbaugh, Committee Secretary  
Cheryl McClellan, Committee Assistant

**OTHERS PRESENT:**

Michael Pagni, representing the Steamboat Canal and Irrigation Company  
and the Last Chance Irrigation Company, Reno, Nevada  
Steve Walker, representing the Truckee Meadows Water Authority, Reno,  
Nevada

**Chair Bobzien:**

This hearing is called to order, and I request the Committee Secretary to mark all the members present. I am opening the hearing on Senate Bill 170 (1st Reprint).

**Senate Bill 170 (1st Reprint): Revises provisions governing payment for work performed for the operation and maintenance of ditches. (BDR 48-1059)**

At the conclusion of the Subcommittee meeting last week, a new mock-up of the proposed amendment to this bill was developed. I would like Mr. Pagni to testify on the agreements reached about some of his concerns with the language in this bill. Also, there is one last additional item Mr. Pagni would like to address.

**Michael Pagni, representing the Steamboat Canal and Irrigation Company and the Last Chance Irrigation Company, Reno, Nevada:**

I asked Mr. Walker to join me at the witness table because we both represent the Truckee Meadows Water Authority (TMWA). Some of the new language also applies to it. The purpose of this bill is to clarify the rights of an irrigation ditch owner to collect operation and management expenses under *Nevada Revised Statutes* (NRS) 536.040. The latest mock-up amendment ([Exhibit C](#)) has a few language changes. The first change is on page 1, line 16 and continues on page 2 through lines 1 and 2. The wording identifies who are the receivers of the irrigation ditch water. These are the parties who are responsible for the operation and maintenance costs that are imposed by the ditch company under NRS 536.040.

The second change starts on page 2, line 3 and ends at the sentence period on line 6. This provision requires a minimum of 30-days notice be given to each of those persons for work to be completed on the ditch that would alter its fundamental character or purpose. The next change is on page 2, line 6 where the new sentence starts, and it continues through line 9. The intent of this sentence is to clarify that NRS 536.040 does not authorize double billing by a supplier of water. In other words, when the owner is billing for ditch operation and maintenance costs, he can capture those charges through the

rates and fees that he currently levies, or the owner can impose a fee under this statute. They cannot do both. The historic practice at the TMWA is to absorb these costs and pass them through to the customer by using its normal rate schedule.

The next change is on page 2, line 11 where a definition is established for a "Supplier of water...." A "supplier of water" is a defined term in the NRS 445A.845. In this bill's language, the term has the same meaning as given in that statute. Section 2 repeats identification of the receiver of irrigation ditch water.

There are two additional changes to the bill's language that I would like to propose. I did speak with Mr. Bobzien about them this morning. The first is located on page 2, line 8 after the word "performed." The additional words to be inserted are "on an irrigation ditch." Therefore, the passage would now read "...performed on an irrigation ditch pursuant to this section...."

The second requested change is at the end of that sentence on page 2, line 9. The words "through the ditch" would be added. Therefore, with the additional words, line 9 would read "...rates of the supplier of water for the delivery of water service through the ditch." Our client, TMWA, requested these changes. Generally speaking, the TMWA staff was neutral on this bill. They do not believe these clarifications will affect their obligations to deliver water service. The notice provisions really do not affect them either since it is a public agency. Any actions taken by the TMWA Board would have to comply with the open meeting law. Further, it would have to follow the rules for duly noticed public meetings, especially when changes to rates, charges, or capital improvement plans are being considered. The TMWA does not double bill. The Steamboat Canal and Irrigation Company and the Last Chance Irrigation Company support this amendment with the two changes I just outlined. Mr. Walker may have some additional comments on behalf of the TMWA.

**Chair Bobzien:**

Are there any questions?

**Assemblyman Segerblom:**

Other than for irrigation, how else are ditches used?

**Michael Pagni:**

A ditch can be used to convey water for any lawful purpose. You could use a ditch to provide water to a hydroelectric facility, or to serve as a raw water supply for domestic use or livestock watering.

**Assemblyman Segerblom:**

If that is the case, why are you requesting the word "irrigation" be added before "ditch" on page 2, line 8?

**Michael Pagni:**

It is used because we are referring to a supplier of water. The definition of a "supplier of water" is in NRS 445A.845, and states a "supplier of water" is an entity that provides a domestic supply of water. In the TMWA's case, it could potentially be both an irrigation ditch and a domestic water supply ditch. We wanted to clarify that when water is being delivered for domestic supply, the TMWA will be subject to all its normal rules and regulations, including the definition in NRS 445A.845. This new language does not change the intent of those existing rules and regulations. However, if a person is operating an irrigation ditch, this bill spells out how costs can be recovered from the customers served by the ditch.

**Assemblyman Segerblom:**

Is "irrigation ditch" defined anywhere in the statutes?

**Michael Pagni:**

I am not aware of the term being defined in Chapter 536 of the NRS. The intent of my language is to define "irrigation ditch" as a ditch that is used for the delivery of irrigation water. "Irrigation water" is a specific and beneficial use of water that is approved by the State Engineer.

**Assemblyman Segerblom:**

Your proposed wording on page 2, line 8 is the only place the word "irrigation" is used in this statute, so you may want to define it.

**J. Randall Stephenson, Committee Counsel:**

The term "irrigation ditch" is not currently defined in the NRS. There is a general rule that words and terms in a statute have to be given a plain meaning. I think the term "irrigation ditch" could be defined using a dictionary definition. "Irrigation" is used in several other provisions of the NRS. For example, the terms "irrigation" district and "irrigation" water are commonly used. As Mr. Pagni pointed out, irrigation is historically one of the beneficial uses in this state for appropriating water.

**Chair Bobzien:**

Mr. Stephenson, do you have any comments on the two suggested language changes requested by Mr. Pagni? I know you have worked a lot on this amendment.

**J. Randall Stephenson:**

I think these changes are fine if the suggested language gets the Subcommittee closer to the issue being addressed. The term "ditch," as used in this section, could be interpreted to mean a ditch other than one that is used for irrigation. If the definition of an "irrigation ditch" was more specific, the language would be satisfactory.

**Steve Walker, representing the Truckee Meadows Water Authority, Reno, Nevada:**

I have worked with Washoe County on the Steamboat Ditch. I contacted the lobbyist for Washoe County, and wrote to Washoe County's Department of Water Resources to make them aware of what we are requesting in this bill. Currently, they are planning to divert water from Thomas Creek south to the Steamboat Ditch. From there, it will be diverted from the Steamboat Ditch into a pipeline to go to a new, full-service water treatment plant in the southern part of the Truckee Meadows.

The Steamboat Ditch would be included under the provisions of this statute. Any operation and maintenance costs incurred on the Steamboat Ditch would be captured through its rate schedule. However, if we take one of these ditches and expand its use to service new growth, a different financing mechanism would be used. We would not use the rate schedule to pay for the ditch expansion. The costs would be recovered by using a capital improvements hook-up fee. The rate payers would only be paying for the operation and maintenance costs. The staff from TMWA has conferred with me, and they are in support of the bill with the amended language.

**Chair Bobzien:**

Are there any more questions? [There were none.] I am closing the hearing on S.B. 170 (R1). I will entertain a motion for a recommendation to the Committee as a whole.

ASSEMBLYMAN GOICOECHEA MOVED TO RECOMMEND AN  
AMEND AND DO PASS ON SENATE BILL 170 (1st REPRINT) TO  
THE COMMITTEE AS A WHOLE.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

This meeting is adjourned [at 2:54 p.m.].

RESPECTFULLY SUBMITTED:

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Judith Coolbaugh  
Committee Secretary

APPROVED BY:

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Assemblyman David P. Bobzien, Chair

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

**EXHIBITS**

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

**Date:** May 4, 2009

**Time of Meeting:** 2:42 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 170 (R1)	C	Jennifer Ruedy	Proposed Mock-up Amendment